10–8–96
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Tuesday
October 8, 1996

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WASHINGTON, DC

WHEN: October 22, 1996 at 9:00 a.m.

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Reader Aids

Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 96–54 of September 28, 1996

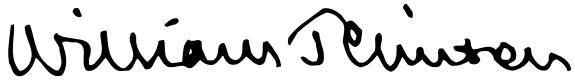
Presidential Determination on Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada

Memorandum for the Administrator of the Environmental Protection Agency [and] the Secretary of the Air Force

I find that it is in the paramount interest of the United States to exempt the United States Air Force's operating location near Groom Lake, Nevada (the subject of litigation in *Kasza v. Browner* (D. Nev. CV–S–94–795–PMP) and *Frost v. Perry* (D. Nev. CV–S–94–714–PMP) from any applicable requirement for the disclosure to unauthorized persons of classified information concerning that operating location. Therefore, pursuant to 42 U.S.C. 6961(a), I hereby exempt the Air Force's operating location near Groom Lake, Nevada, from any Federal, State, interstate or local provision respecting control and abatement of solid waste or hazardous waste disposal that would require the disclosure of classified information concerning that operating location to any unauthorized person. This exemption shall be effective for the full one-year statutory period.

Nothing herein is intended to: (a) imply that in the absence of such a Presidential exemption, the Resource Conservation and Recovery Act (RCRA) or any other provision of law permits or requires disclosure of classified information to unauthorized persons; or (b) limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake, Nevada, except those provisions, if any, that would require the disclosure of classified information.

The Secretary of the Air Force is authorized and directed to publish this determination in the Federal Register.



THE WHITE HOUSE,
Washington, September 28, 1996.

[FR Doc. 96–25959
Filed 10–7–96; 8:45 am]
Billing code 3910–01–M

Rules and Regulations

Federal Register
Vol. 61, No. 196
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 927 and 931

[Docket No. FV96–927–2 FIR]

Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that established assessment rates for Marketing Order Nos. 927 and 931 for the 1996–97 and subsequent fiscal periods. The Winter Pear Control Committee and the Northwest Fresh Bartlett Marketing Committee (Committees) are responsible for local administration of the marketing orders which regulate the handling of winter pears grown in Oregon, Washington, and California and fresh Bartlett pears grown in Oregon and Washington. Authorization to assess winter pear and fresh Bartlett pear handlers enables the Committees to incur expenses that are reasonable and necessary to administer the programs.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Tershirra Yeager, Marketing Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2522–S, Washington, DC 20090–6456, telephone (202) 720–5127, FAX# (202) 720–5698, or Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, OR 97204, telephone (503) 326–2724, FAX# (503) 326–7440. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2491, FAX# (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 927 [7 CFR part 927], regulating the handling of winter pears grown in Oregon, Washington, and California, and Marketing Order No. 931 [7 CFR part 931] regulating the handling of fresh Bartlett pears grown in Oregon and Washington, hereinafter referred to as the ''orders.'' The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing orders now in effect, handlers in designated areas are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable winter pears and fresh Bartlett pears beginning July 1, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handlers are afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 90 handlers of winter pears and 65 handlers of fresh Bartlett pears subject to regulation under the marketing orders. In addition, there are about 1,800 winter pear and fresh Bartlett pear producers in the respective production areas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of winter pear and fresh Bartlett pear producers and handlers may be classified as small entities.

The orders provide authority for the Committees, with the approval of the Department, to formulate annual budgets of expenses and collect assessments from handlers to administer the programs. The members of the Committees are producers and handlers of Oregon, Washington, and California pears. They are familiar with the Committees' needs and with the costs for goods and services in their local areas and are thus in a position to formulate appropriate budgets and assessment rates. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The Winter Pear Control Committee met on May 31, 1996, and unanimously recommended 1996–97 expenditures of $5,887,084 and an assessment rate of $0.405 per standard box. In comparison,

last year's budgeted expenditures were $7,384,440.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of winter pears grown in Oregon, Washington, and California. Winter pear shipments for the year are estimated at 12,465,800 standard boxes which should provide assessment revenue of $5,048,649. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Major expenditures recommended by the Winter Pear Control Committee for the 1996–97 year include $154,387 for salaries, $4,674,675 for paid advertising, and $249,316 for production research. Budgeted expenses for these items in 1995–96 were $147,152, $6,064,163, and $323,422, respectively.

The Northwest Fresh Bartlett Marketing Committee met on May 30, 1996, and unanimously recommended 1996–97 expenditures of $89,774 and an assessment rate of $0.0375 per western standard pear box. In comparison, last year's budgeted expenditures were $92,254.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh Bartlett pears grown in Oregon and Washington. Shipments for the year are estimated at 1,842,000 packed boxes which should provide $69,075 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Major expenditures recommended by the Northwest Fresh Bartlett Marketing Committee for the 1996–97 year include $46,306 for salaries, $4,991 for health insurance, and $7,016 for office rent. Budgeted expenses for these items in 1995–96 were $44,135, $4,989 and $5,206, respectively.

An interim final rule regarding this action was published in the August 16, 1996, issue of the Federal Register (61 FR 42529). That rule provided a 30-day comment period. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing orders. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rates established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committees or other available information.

Although these assessment rates are effective for an indefinite period, the Committees will continue to meet prior to or during each fiscal period to consider recommendations for modification of the assessment rates.

The dates and times of Committee meetings are available from the Committees or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modifications of the assessment rates are needed. Further rulemaking will be undertaken as necessary. The Committees' 1996–97 budgets and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committees and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis; (2) the 1996–97 fiscal periods began on July 1, 1996, and the marketing orders require that the rates of assessment for each fiscal period apply to all assessable winter pears and fresh Bartlett pears handled during such fiscal period; (3) handlers are aware of the actions which were recommended by the Committees at public meetings and are similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action, providing a 30-day comment period, and no comments were received.

List of Subjects

7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

7 CFR Part 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 927 and 931 are amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON AND CALIFORNIA

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR parts 927 and 931 which was published at 61 FR 42529 on August 16, 1996, is adopted as a final rule without change.

Dated: October 1, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–25706 Filed 10–7–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 958

[Docket No. FV96–958–3 FIR]

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Relaxation of Pack and Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule permitting bulk shipments of U.S. Commercial and U.S. No. 2 grade onions which contain more than 30 percent U.S. No. 1 grade onions. A bulk shipment is one in which the onions are packed in containers weighing 60 pounds or more. This rule also removes the requirement that bulk containers of onions packed as U.S. Commercial grade shall have the grade marked permanently and conspicuously on the containers. These changes are intended to improve the marketing of such onions, reduce handler packing costs, and increase returns to growers. These changes were recommended by the Idaho-Eastern Oregon Onion Committee

(committee), the agency responsible for the local administration of the marketing order for onions grown in certain designated counties in Idaho, and Malheur County, Oregon.

EFFECTIVE DATE: November 7, 1996.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; Telephone: (503) 326–2724, FAX: (503) 326–7440; or Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456; Telephone: (202) 690–0464, FAX: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456; Telephone (202) 720–2491, FAX (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 130 and Marketing Order No. 958 (7 CFR part 958), as amended, regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 34 handlers who are subject to regulation under the order and approximately 550 producers in the production area. Small agricultural service firms, which includes handlers of Idaho-Eastern Oregon onions, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of Idaho-Eastern Oregon onion handlers and producers may be classified as small entities.

This final rule continues in effect an action which removed pack and container marking requirements for shipments of bulk containers. Bulk containers contain 60 pounds or more of onions. Prior to this rule, shipments of all varieties of onions (except red) which grade U.S. Commercial or U.S. No. 2 could not contain more than 30 percent U.S. No. 1 grade onions, regardless of container size. The intent of this requirement was to lessen the chances of market confusion by providing a clear distinction between onions packed as U.S. No. 1, the highest grade shipped from the production area, and those onions packed at the U.S. Commercial or U.S. No. 2 grade levels. Also, all containers of onions of the U.S. Commercial grade were required to be prominently and conspicuously marked to further achieve the distinction between the various grades packed and shipped from the production area.

Industry experience indicates that it is not important to limit the percentage of U.S. No. 1 onions in marketing bulk containers, because such onions normally go to firms that peel, slice, dice, chop, or otherwise prepare them for use in salad bars, fast food, or similar retail outlets. Shipments for the wholesale, retail, repacker, and export trade generally are made in containers weighing less than 60 pounds. Thus, the risk of confusion among buyers as to the quality of onions for traditional bulk shipment market outlets is quite low. Absent these changes, bulk shipments of onions containing more than 30 percent U.S. No. 1 grade onions would have had to be repacked to meet the 30 percent tolerance and handlers would have continued to incur additional expenses. This rule will especially benefit small handlers shipping bulk containers because such handlers normally operate with fewer packing lines and pack fewer onions. This makes it more difficult for small handlers to repack lots to meet the 30 percent U.S. No. 1 tolerance compared to larger handlers.

With the reduced packing costs, and greater marketing flexibility expected to result from these changes, small and large handlers in the Idaho-Eastern Oregon onion industry will be able to compete more effectively in the marketplace. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. Interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses. No such information was received.

Section 958.52 of the order authorizes the issuance of grade, size, quality, container markings, pack, and container regulations for any variety or varieties of onions grown in the production area. Section 958.51 authorizes the modification, suspension, or termination of regulations issued under section 958.52.

This rule continues in effect amendments to paragraphs (a)(1)(ii) and (a)(3)(i) of section 958.328 by removing, for onions packed in containers weighing 60 pounds or greater, the requirement that all varieties of onions (except red) which grade U.S. No. 2 or U.S. Commercial may not be shipped if more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality. This rule also continues in effect an amendment to paragraph (b) of section 958.328 by removing, for onions packed in containers weighing 60 pounds or greater, the requirement that onions packed as U.S. Commercial grade shall have the grade marked permanently and conspicuously on such containers. These requirements continue to apply to onions shipped in containers weighing less than 60 pounds.

The committee unanimously recommended these changes at its June 18, 1996, meeting. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Idaho-Eastern Oregon onions which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The previous requirement that all varieties of onions (except red) which grade U.S. No. 2 or U.S. Commercial could not be shipped if more than 30 percent of the lot was comprised of onions of U.S. No. 1 quality was intended to reduce market confusion by providing a clear distinction between onions packed as U.S. No. 1 and those packed at the U.S. No. 2 and U.S. Commercial grade levels. The goal of providing a clear distinction between packs in the marketplace was further achieved by requiring onions packed as U.S. Commercial grade to have the grade marked permanently and conspicuously on the container. Preventing market confusion is important to the industry in maintaining orderly marketing, and maximizing industry shipments.

The committee reported that this distinction was of little value for bulk shipments of onions, which normally are used for peeling, chopping, slicing, or repacking, and that these requirements have placed an undue regulatory burden on handlers and unnecessarily increased packing costs for such shipments. The committee reported that requiring the grade marking on bulk containers of U.S. Commercial grade onions was not necessary because the chance of market confusion between handlers and buyers of bulk containers is small.

The previous requirement which prohibited the bulk shipment of a lot of onions that graded U.S. No. 2 or U.S. Commercial because it was comprised of more than 30 percent U.S. No. 1 quality sometimes forced handlers to resort such onions, or blend them with poorer quality onions to bring the lots into conformance with the 30 percent tolerance. Rather than incur these additional costs, handlers sometimes sent such onions to lower value, secondary outlets, such as processing; e.g., canning, freezing, dehydration, or similar outlets. Removal of the 30 percent commingling requirement for bulk onion shipments is expected to provide handlers with greater marketing flexibility, reduce packing costs, and increase returns to growers. Removal of the U.S. Commercial grade marking requirement for bulk containers is expected to reduce handler packing costs and remove an unnecessary regulatory burden on handlers of such containers.

The 30 percent commingling and marking requirements for containers with less than 60 pounds of onions continues in effect to maintain the distinction between the various grades shipped into non-bulk markets. As mentioned earlier, this is necessary to prevent market confusion and to maintain orderly marketing conditions.

The interim final rule was issued on July 26, 1996, and published in the Federal Register (61 FR 39839, July 31, 1996), with an effective date of August 1, 1996. That rule provided a 30-day comment period which ended August 30, 1996. No comments were received.

After consideration of all relevant material presented, including the committee's recommendation, and other available information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (61 FR 39839, July 31, 1996) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

Accordingly, the interim final rule amending 7 CFR part 958 which was published at 61 FR 39839 on July 31, 1996, is adopted as a final rule without change.

Dated: October 1, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–25707 Filed 10–7–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 989

[Docket No. FV96–989–3 IFR]

Raisins Produced From Grapes Grown in California; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the Raisin Administrative Committee (Committee) under Marketing Order No. 989 for the 1996–97 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of raisins produced from grapes grown in California. Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

DATES: Effective on August 1, 1996. Comments received by November 7, 1996, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mary Kate Nelson, Marketing Assistant, Marketing Order Administration Branch, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, California 93721, telephone 209–487–5901; FAX 209–487–5906, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–720–9918; FAX 202–720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–720–2491; FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989, both as amended (7

CFR part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California raisin handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable raisins beginning August 1, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 4,500 producers of raisins in the production area and approximately 20 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts (from all sources) are less than $5,000,000. No more than eight handlers, and a majority of producers, of California raisins may be classified as small entities. Twelve of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining eight handlers have sales less than $5,000,000, excluding receipts from any other sources.

The California raisin marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California raisins. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on August 15, 1996, and unanimously recommended 1996–97 expenditures of $1,463,000 and an assessment rate of $5.00 per ton of California raisins. In comparison, last year's budgeted expenditures were $1,500,000. The assessment rate of $5.00 is the same as last year's established rate. Major expenditures recommended by the Committee for the 1996–97 year compared to those budgeted for 1995–96 (in parentheses) include: $485,000 for export program administration and related activities ($470,000); $412,000 for salaries and wages ($471,000); $95,000 for Committee and office staff travel ($70,000); $80,000 reserve for contingencies ($142,115); $54,000 for general, medical, and Committee member insurance ($64,385); $49,500 for rent ($43,000); $41,200 for group retirement ($23,000); $37,500 for membership dues/surveys ($15,500); $30,000 for office supplies ($30,000); $28,000 for equipment ($20,000); $28,000 for payroll taxes ($32,000); $22,000 for postage ($20,000); $15,000 for telephone ($15,000); $15,000 for miscellaneous expenses ($15,000); $12,000 for repairs and maintenance ($10,000); $12,000 for Committee meeting expense ($7,500); $10,000 for research and communications ($23,000); and $5,000 for audit fees ($20,000). The Committee also recommended $15,000 for printing and $10,000 for software and programming for which no funding was recommended last year.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by the expected quantity of assessable California raisins for the crop year. This rate, when applied to anticipated acquisitions of 292,600 tons, will yield $1,463,000 in assessment income, which should be adequate to cover anticipated administrative expenses. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996–97 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the

information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 crop year began on August 1, 1996, and the marketing order requires that the rate of assessment for each crop year apply to all assessable raisins handled during such crop year; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new subpart titled ''Assessment Rates'' consisting of § 989.347 is added immediately following § 989.221 to read as follows:

Note: This section will appear in the Code of Federal Regulations.

Subpart—Assessment Rates

§ 989.347 Assessment rate.

On and after August 1, 1996, an assessment rate of $5.00 per ton is established for assessable California raisins.

Dated: October 1, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–25708 Filed 10–7–96; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 935

[No. 96–61]

Terms and Conditions for Advances

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Board of Directors of the Federal Housing Finance Board (Finance Board) is adopting a final rule that amends its regulation on terms and conditions for advances. The final rule requires a Federal Home Loan Bank (FHLBank) that offers putable advances to provide appropriate written disclosures and to offer replacement advance funding in the event that the FHLBank terminates the putable advance prior to its stated maturity date.

EFFECTIVE DATE: The final rule will become effective November 7, 1996.

FOR FURTHER INFORMATION CONTACT: Christine M. Freidel, Assistant Director, Financial Management Division, Office of Policy, (202) 408–2976, or, Janice A. Kaye, Attorney-Advisor, Office of General Counsel, (202) 408–2505, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Under section 10 of the Federal Home Loan Bank Act (Bank Act), each FHLBank has the authority to make secured advances [1] to its members. *See* 12 U.S.C. 1430. To ensure that the FHLBanks operate their advance programs in a safe and sound manner, 12 U.S.C. 1422a(a)(3)(A), and pursuant to its authority to supervise the FHLBanks and ensure that the FHLBanks carry out their housing finance mission and remain adequately capitalized and able to raise funds in the capital markets, *id.* § 1422a(a)(3)(B), the Finance Board promulgated a final rule governing FHLBank advance programs in May 1993. *See* 58 FR 29456 (May 20, 1993), *codified at* 12 CFR part 935.

Since that time, the FHLBanks have developed a new type of advance product called a ''putable advance.'' A putable advance is one that a FHLBank may, at its discretion, put back to a member for immediate repayment prior to the maturity of the advance on dates specified in the advances agreement. Putable advances present to a member borrower the risk that a FHLBank will exercise the put option and terminate the advance prior to its maturity date thereby placing the borrower at a disadvantage. For example, if a FHLBank were to terminate a putable advance prior to its maturity date in a rising interest rate environment, any replacement advance funding offered to the member might be extended at higher market interest rates. On the other hand, since the member borrower is incurring the interest rate risk associated with putable advance funding, a FHLBank is able to offer a putable advance at an interest rate that can be significantly lower than that available on a regular advance. FHLBank members have expressed considerable interest in the lower cost funding available through the use of putable advances.

The Finance Board's advances regulation does not address putable advances, and the practices with respect to this type of advance funding vary from FHLBank to FHLBank. To provide for uniformity and consistency in practice among the FHLBanks that offer putable advances and to reinforce the role of the FHLBanks as sources of liquidity for member institutions, the Finance Board approved for publication a proposed rule to amend its advances regulation to address specifically the issuance of putable advances. The proposed rule was published in the Federal Register on August 2, 1996, with a 30-day public comment period that closed on September 3, 1996. *See* 61 FR 40364 (Aug. 2, 1996). The Finance Board received a total of four comments in response to the notice of proposed rulemaking, two from FHLBanks and two from industry trade associations. The commenters generally supported the Finance Board's proposal. Specific comments are discussed in § II of the *Supplementary Information.*

II. Analysis of Public Comments and the Final Rule

The final rule adds a new subsection (d), putable advances, to § 935.6 of its advances regulation, which concerns the terms and conditions for advances.

A. Disclosure

To ensure that members are fully apprised of the risks associated with putable advance funding, § 935.6(d)(1) requires a FHLBank that provides a putable advance to a member to disclose in writing to such member the risks associated with putable advance funding. Such risks include the option risk described in § I of the *Supplementary Information* and the

[1] For purposes of the Finance Board regulation governing advances, 12 CFR part 935, an advance is a loan from a FHLBank that is provided pursuant to a written agreement, supported by a note or other written evidence of the borrower's obligation, and fully secured by collateral in accordance with the Bank Act and Finance Board regulations. *See id.* § 935.1.

potentially adverse impact on a member's liquidity if a FHLBank terminates a putable advance prior to the stated maturity date.

A trade association commenter strongly supported the written disclosure requirement and recommended that the disclosure contain information regarding the interest rate environments in which a FHLBank might exercise the put option. The Finance Board believes that the disclosure required by the proposed rule already encompasses this type of information. However, to provide further clarification, the final rule states that the disclosure should include detail sufficient to describe the type and nature of the risks associated with putable advances.

B. Replacement Funding

To preclude the possibility that putable advance funding might cause liquidity problems for members, § 935.6(d)(2) of the proposed rule would have required a FHLBank that terminates a putable advance prior to its maturity date to offer replacement funding to the member at the market rate for the remaining term to maturity of the putable advance. To provide maximum utility to FHLBank members and flexibility to both members and the FHLBanks, one FHLBank commenter suggested that the term to maturity of the replacement funding should be determined through negotiations between the FHLBank and the member. The other FHLBank commenter suggested that, in order to provide FHLBank members with some protection from interest rate changes, a member should be permitted to elect at the time of origination of the putable advance whether replacement funding will be priced at the market rate or a predetermined rate negotiated between the FHLBank and the member. The Finance Board has decided to incorporate these suggestions into the final rule.

Section 935.6(d)(2) of the final rule requires a FHLBank that terminates a putable advance prior to its maturity date to offer replacement funding to the member. Paragraph (d)(2)(i) provides that at the option of the member, the term to maturity of replacement funding may be either the remaining term to maturity of the putable advance or a term to maturity agreed upon between the FHLBank and the member. Paragraph (d)(2)(ii) provides that at the option of the member, replacement funding may be priced at either the market rate or a predetermined rate agreed upon between the FHLBank and the member. Although the final rule requires a FHLBank to offer replacement funding, it does not obligate the member to accept the offer.

In the notice of proposed rulemaking, the Finance Board stated that the FHLBanks should consider replacement funding to be a conversion of the outstanding advance rather than a new extension of credit. To ensure that there is no conflict between the putable advances provision and § 935.5 of the Finance Board's advances regulation, 12 CFR 935.5, which establishes limitations on access to FHLBank advances, a FHLBank commenter suggested clarifying the final rule. The Finance Board agrees with this suggestion and has added a new paragraph to the final rule, § 936.5(d)(2)(iii), providing that, for purposes of part 935, replacement funding is the conversion of an outstanding advance, not the renewal of an existing advance or the extension of a new advance.

A trade association commenter supported the development of new advance products that help FHLBank members to meet their liquidity and credit needs. The commenter recommended that, in addition to putable advances, the FHLBanks should offer ''callable advances'' that would be callable at the option of the FHLBank member. A FHLBank would factor the cost of the call provision into the coupon, much as it includes the cost of the put in the price of a putable advance, rather than through a prepayment penalty. All of the FHLBanks currently offer callable advances and all but two factor the full cost of the option into the advance coupon.

C. Definition of ''Putable Advance''

The Finance Board adopted the definition of the term ''putable advance'' in § 935.6(d)(3) of the proposed rule without change. For purposes of § 935.6(d), the term ''putable advance'' means an advance that a FHLBank may, at its discretion, terminate and require the member to repay prior to the stated maturity date of the advance.

III. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, the FHLBanks are not ''small entities.'' *Id.* section 601(6). Since this final rule contains only technical revisions to an existing rule that applies only to the FHLBanks, it does not impose any additional regulatory requirements on small entities. Thus, in accordance with the provisions of the RFA, the Board of Directors of the Finance Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. *Id.* section 605(b).

List of Subjects in 12 CFR Part 935

Credit, Federal home loan banks.

Accordingly, the Board of Directors of the Finance Board hereby amends part 935, chapter IX, title 12, Code of Federal Regulations, as follows:

PART 935—ADVANCES

1. The authority citation for part 935 continues to read as follows:

Authority: 12 U.S.C. 1422b(a)(1), 1426, 1429, 1430, 1430(b), and 1431.

2. In § 935.6, paragraph (d) is added to read as follows:

§ 935.6 Terms and conditions for advances.

* * * * *

(d) *Putable advances.* (1) *Disclosure.* A Bank that offers a putable advance to a member shall disclose in writing to such member the type and nature of the risks associated with putable advance funding. The disclosure should include detail sufficient to describe such risks.

(2) *Replacement funding.* If a Bank terminates a putable advance prior to the stated maturity date of such advance, the Bank shall offer to provide replacement funding to the member.

(i) *Term to maturity.* At the option of the member, a Bank shall offer replacement funding:

(A) For the remaining term to maturity of the putable advance; or

(B) For a term to maturity agreed upon between the Bank and the member.

(ii) *Interest rate.* At the option of the member, a Bank shall price replacement funding:

(A) At the market rate of interest; or

(B) At a predetermined rate of interest agreed upon between the Bank and the member.

(iii) *Conversion.* For purposes of this part, replacement funding shall be considered the conversion of an outstanding advance, and shall not be considered the renewal of an existing advance or the extension of a new advance.

(3) *Definition.* For purposes of this paragraph (d), the term *putable advance* means an advance that a Bank may, at its discretion, terminate and require the member to repay prior to the stated maturity date of the advance.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairperson.

[FR Doc. 96–25695 Filed 10–7–96; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–246–AD; Amendment 39–9778; AD 96–21–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes. This action requires revising the Airplane Flight Manual (AFM) to require the flight crew to check, and reset, if necessary, certain instrument settings prior to each takeoff and after any event during which generators are switched. This amendment is prompted by reports indicating that the co-pilot's air data reference system has intermittently failed following the switching of power between generators. The actions specified in this AD are intended to prevent uncommanded changes in certain instrument settings on the co-pilot's display, which, if not corrected, can result in confusion among the flight crew about the correct position and flight configuration of the airplane.

DATES: Effective October 15, 1996.

Comments for inclusion in the Rules Docket must be received on or before December 9, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–246–AD, 1601 Lind Avenue, SW., Renton, 98055–4056.

The information concerning this AD may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine & Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Peter Cuneo, Aerospace Engineer, FAA, New York Aircraft Certification Office, ANE–172, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7506; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes. Transport Canada Aviation advises that it has received reports indicating that there has been intermittent failure of the co-pilot's air data reference system on some of these airplanes. This failure has occurred after the transfer of power between generators, and has resulted in uncommanded changes in the settings of the barometric altimeter, altitude pre-selector, V-speed, and speed bug on the co-pilot's instrument display. This condition, if not corrected, could result in confusion among the flight crew about the correct position and flight configuration of the airplane.

Actions by Transport Canada Aviation

Transport Canada Aviation issued Canadian airworthiness directive CF–96–16, dated September 23, 1996, in order to assure the continued airworthiness of these airplanes in Canada. That directive advises the flight crew to ''check and reset, as required, the barometric altimeter setting, altitude pre-selector, V-speed, and speed bug settings before takeoff and after any generator switching events.''

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent uncommanded changes in the settings of the barometric altimeter, altitude pre-selector, V-speed, and speed bug on the co-pilot's instrument display. This AD requires revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to require the flight crew to check the settings of these instruments, and reset these settings, as necessary, prior to each takeoff and after any event during which generators are switched.

Interim Action

This action is considered to be interim action until final action is identified. At that time, the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–246–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–21–02 Bombardier, Inc. (Formerly Canadair): Amendment 39–9778. Docket 96–NM–246–AD.

Applicability: Model CL–600–2B19 (Regional Jet Series 100) series airplanes; having serial numbers 7003 and subsequent; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded changes in the settings of the barometric altimeter, altitude pre-selector, V-speed, and speed bug on the co-pilot's instrument display, which could result in confusion among the flight crew about the correct position and flight configuration of the airplane, accomplish the following:

(a) Within 3 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

''Prior to each takeoff and after any event during which generators are switched, check the settings of the barometric altimeter, altitude pre- selector, V-speed, and speed bug. If any discrepancy is detected, reset, as necessary.''

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on October 15, 1996.

Issued in Renton, Washington, on October 1, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–25671 Filed 10–7–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–AWP–18]

Amendment of Class D Airspace; Hayward, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace area at Hayward, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 28L has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Hayward Air Terminal, Hayward, CA.

EFFECTIVE DATE: 0901 UTC December 5, 1996.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On July 29, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class D airspace area at Hayward, CA (61 FR 39367). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 28L at Hayward Air Terminal, Hayward, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in this Order.

The Rule

The amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class D airspace area at Hayward, CA. The development of a GPS SIAP to RWY 28L has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 28L SIAP at Hayward Air Terminal, Hayward, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996 and effective September 16, 1996, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AWP CA D Hayward, CA [Revised]

Harward Air Terminal, CA
(Lat. 37°39′34″N, long. 122°07′21″ W)
San Francisco International Airport, CA
(Lat. 37°37′09″N, long. 122°22′30″ W)
Metropolitan Oakland International Airport, CA
(Lat. 37°43′17″N, long. 122°13′15″ W)

That airspace extending upward from the surface to but not including 1,500 feet MSL within a 5.6-mile radius of the Hayward Air Terminal excluding that portion within the San Francisco International Airport, CA. Class B airspace area and the Metropolitan Oakland International Airport, CA, Class C airspace area. This Class D airspace area is effective during the specific dates and times established by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on September 13, 1996.

Leonard A. Mobley,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–25415 Filed 10–7–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The supplemental ANADA provides for an additional container size for the firm's oxytetracycline hydrochloride (OTC HCl) soluble powder. The drug product is administered orally in drinking water for either control or control and treatment of certain diseases of chickens, turkeys, swine, cattle, and sheep. In addition, the regulations are amended to specify the withdrawal period for use of medicated drinking water made from the subject sponsor's drug and to add certain warning statements required on the labeling.

EFFECTIVE DATE: October 8, 1996.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Ter., P.O. Box 6457, St. Joseph, MO 64506–0457, is the sponsor of ANADA 200–146, which provides for use of OTC HCl soluble powder in drinking water for either control or control and treatment of certain diseases of chickens, turkeys, swine, cattle, and sheep in accordance with § 520.1660d (21 CFR 520.1660d). The firm has filed a supplement to the ANADA that provides for the drug product in a 5-pound (lb) pail in addition to the previously approved 2-lb pail. The supplemental ANADA is approved as of August 15, 1996, and the regulations are amended in § 520.1660d to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Also, the regulations are amended to reflect the appropriate withdrawal times for the subject drug product. The withdrawal times were inadvertently omitted in the final rule which announced the original approval (61 FR 2914, January 30, 1996).

In addition, § 520.1660d(e)(1)(iv)(C) is revised by adding required warning statements against use of the drug product in the drinking water of calves to be processed for veal or female dairy cattle 20 months of age or older.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.1660d is amended by revising paragraph (a)(7), the sixth sentence in paragraphs (e)(1)(ii)(A)(*3*), (e)(1)(ii)(B)(*3*), and (e)(1)(ii)(C)(*3*), the third sentence in paragraph (e)(1)(iii)(C), and by adding four sentences at the end of paragraph (e)(1)(iv)(C) to read as follows:

§ 520.1660d Oxytetracycline hydrochloride soluble powder.

(a) * * *

(7) Each 18.1 grams of powder contains 1 gram of OTC HCl (pails: 2 and 5 lb).

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(A) * * *

(*3*) * * * Withdraw 5 days prior to slaughter those products sponsored by Nos. 000069, 017144, 057561, and 059130 in § 510.600(c) of this chapter. * * *

(B) * * *

(*3*) * * * Withdraw 5 days prior to slaughter those products sponsored by Nos. 000069, 017144, 057561, and 059130 in § 510.600(c) of this chapter. * * *

(C) * * *

(*3*) * * * Withdraw 5 days prior to slaughter those products sponsored by Nos. 000069, 017144, 057561, and 059130 in § 510.600(c) of this chapter. * * *

(iii) * * *

(C) * * * Administer up to 14 days; do not use for more than 14 consecutive days; withdraw 5 days prior to slaughter those products sponsored by Nos. 000069 and 059130. * * *

(iv) * * *

(C) * * * A withdrawal period has not been established for this product in pre-ruminating calves. Do not use in calves to be processed for veal. A milk discard period has not been established for this product in lactating dairy cattle. Do not use in female dairy cattle 20 months of age or older.

* * * * *

Dated: September 13, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–25811 Filed 10–7–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[ND–033–FOR]

North Dakota Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the North Dakota abandoned mine land reclamation (AMLR) plan (hereinafter, the ''North Dakota plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). North Dakota proposed revisions to and the addition of provisions pertaining to contractor eligibility, procurement procedures, contract procedures, contract and procurement policies, and the State agency structural organization. The amendment was intended to revise the North Dakota plan to meet the requirements of the corresponding Federal regulations and be consistent with SMCRA, and to improve operational efficiency.

EFFECTIVE DATE: October 8, 1996.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–6550, Internet address: GPADGETT@CWYGW.OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Plan

On December 23, 1981, the Secretary of the Interior approved the North Dakota plan. General background information on the North Dakota plan, including the Secretary's findings and the disposition of comments, can be found in the December 23, 1981, Federal Register (46 FR 62253). Subsequent actions concerning North Dakota's plan and plan amendments can be found at 934.25.

II. Proposed Amendment

By letter dated September 20, 1995, North Dakota submitted a proposed amendment to its plan (administrative record No. ND–X–02) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment in response to a September 26, 1994, letter (administrative record No. ND–X–01) that OSM sent to North Dakota in accordance with 30 CFR 884.15(b), and at its own initiative. The provisions of the North Dakota plan that North Dakota proposed to revise or add were: North Dakota Century Code (NDCC) 38–14.2–03(14), bidder eligibility for abandoned mine land (AML) contracts; procurement procedures; contract procedures; contract and procurement policies 2–02–81(5) and 2–01–81(5); and the North Dakota Public Service Commission (PSC) organizational chart.

OSM announced receipt of the proposed amendment in the October 16, 1995, Federal Register (60 FR 53564), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. ND–X–05). Because no one requested a public hearing or meeting, none was held. The public comment period ended on November 15, 1995.

During its review of the amendment, OSM identified concerns relating to the provisions at NDCC 38–14.2–03(14), bidder eligibility, and section IV.C.5 of the North Dakota PSC procurement procedures, non-competitive negotiation. OSM notified North Dakota of the concerns by letter dated December 7, 1995 (administrative record No. ND–X–04). North Dakota responded in a letter dated April 30, 1996, by submitting additional explanatory information (administrative record No. ND–X–09). North Dakota proposed additional explanatory information for NDCC 38–14.2–03(14), contractor responsibility, and procurement procedure section IV.C.5., sole-source procurement.

Based upon the additional explanatory information for the proposed plan amendment submitted by North Dakota, OSM reopened the public comment period in the May 21, 1996, Federal Register (61 FR 25425, administrative record No. ND–X–18). Because no one requested a public hearing or meeting, none was held. The public comment period closed on June 20, 1996.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 884.14 and 884.15, finds that the proposed plan amendment submitted by North Dakota on September 20, 1995, and as supplemented with additional explanatory information on April 30, 1996, meets the requirements of the corresponding Federal regulations and is consistent with SMCRA. Thus, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to North Dakota's Plan Provisions

North Dakota proposed revisions to the following previously-approved plan provisions that are nonsubstantive in nature and consist of minor editorial and recodification changes (corresponding Federal regulation provisions are listed in parentheses):

North Dakota PSC Procurement Procedures (30 CFR 884.13(d)(3)), title and table of contents, and

North Dakota PSC Contract Procedures (30 CFR 884.13(d)(3)), title and table of contents.

Because the proposed revisions to these previously-approved plan provisions are nonsubstantive in nature, the Director finds that they meet the requirements of the Federal regulations. The Director approves the proposed revisions to these plan provisions.

2. NDCC 38–14.2–03(14), Bidder Eligibility for Abandoned Mine Land Contracts

North Dakota proposed to add NDCC 38–14.2–03(14) to require that:

Every successful bidder for an AML contract must be eligible based on available information concerning Federal and State failure-to-abate cessation orders, unabated Federal and State imminent harm cessation

orders, delinquent civil penalties issued pursuant to Section 518 of the Surface Mining Control and Reclamation Act of 1977, bond forfeitures where violations upon which the forfeitures were based have not been corrected, delinquent abandoned mine reclamation fees, and unabated violations of Federal an State laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation.

The Federal regulations at 30 CFR 874.16 for coal and 875.20 for noncoal provide that to receive AML funds, every successful bidder for an AMI contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations and that bidder eligibility must be confirmed by OSM's automated Applicant/Violator System for each contract to be awarded.

At NDCC 38–14.2–03(14), North Dakota proposed clearance criteria that must be met before an AML contract may awarded to a successful bidder for a contract; however, North Dakota's proposed statute lacks the specific criteria of the Federal regulations concerning eligibility.

North Dakota proposed that ''[e]very successful bidder for an AML contract must be eligible based on available information * * *.'' North Dakota's use of the phrase ''must be eligible'' does not indicate what the successful bidder must be eligible for. The Federal regulations at 30 CFR 874.16 and 875.20 require that every successful bidder for an AML contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations.

Secondly, North Dakota proposed that ''the successful bidder for an AML contract must be eligible based on available information concerning Federal and State failure-to-abate cessation orders, unabated Federal and State imminent harm cessation orders, delinquent civil penalties issued pursuant to Section 518 of the Surface Mining Control and Reclamation Act of 1977, bond forfeitures where violations upon which the forfeitures were based have not been corrected, delinquent abandoned mine reclamation fees, and unabated violations of Federal and State laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation.''

This list of eligibility criteria does not include all of the criteria of the corresponding Federal regulation at 30 CFR 773.15(b)(1) (as published October 28, 1994, 59 FR 54306), which is referenced in 30 CFR 874.16 and 875.20. The Federal regulation at 30 CFR 773.15(b)(1) includes, in addition to the criteria included in North Dakota's proposed statute, violations ''of the Act [(SMCRA)], any Federal rule or regulation promulgated pursuant thereto, [and of] a State program.'' Although North Dakota includes cessation orders in its list, it does not include Federal and State notices of violations and any other ''written notification from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any Federal rule or regulation promulgated pursuant thereto; [or a] State program,'' which are included in the definition of ''violation notice'' at 30 CFR 773.5.

North Dakota's statute does not include the ownership and control provisions of the Federal regulations. 30 CFR 874.16 and 875.20, through their referencing of 30 CFR 773.15(b)(1), require that a contract may not be awarded to a successful bidder until the regulatory authority determines that any surface coal mining and reclamation operation owned by the bidder or by any person who owns or controls the bidder is not in violation of the laws, rules, and regulations addressed in the preceding paragraph.

Finally, North Dakota indicated at proposed NDCC 38–14.2–03(14) that ''[e]very successful bidder for an AML contract must be eligible based on 'available information','' but the proposed statute does not indicate where it will obtain this ''available information.'' The Federal regulations at 30 CFR 874.16 and 875.20 require that ''[b]idder eligibility must be confirmed by OSM's automated Applicant/Violator System for each contract to be awarded.''

In one other respect, proposed NDCC 38–14.2–03(14) differs from the requirements of 30 CFR 874.16 and 875.20. In the proposed statute, North Dakota did not include counterpart provisions to the Federal requirements regarding presumption of abatement of notices of violation. 30 CFR 874.16 and 875.20, through their referencing of 30 CFR 773.15(b)(1), set forth the circumstances under which the regulatory authority may presume that a notice of violation is being abated. If these circumstances exist, the regulatory authority would not withhold the awarding of the contract until the violation was actually abated. The language proposed at NDCC 38–14.2–03(14) does not make it inconsistent with 30 CFR 874.16 and 875.20, but it does make it more stringent than these Federal regulations.

In response to OSM's December 7, 1995, issue letter (administrative record No. ND–X–04) concerning these identified deficiencies, North Dakota proposed additional explanatory information for NDCC 38–14.2–03(14) in the form of a policy document dated April 30, 1996, that provides guidelines to govern the selection of successful bidders for AMLR contracts. Specifically, the North Dakota PSC proposed to add a policy statement that requires a background search of successful bidders for AMLR contracts, provides the criteria to be used in determining the eligibility of the successful bidder under 30 CFR 773.15(b)(1) at the time of contract award, limits the award of the AMLR contract to a successful bidder who meets the criteria used to determine eligibility, and provides that the eligibility determination will be made through OSM's Applicant/Violator System for each AMLR contract to be awarded. This policy document requires that the successful bidder for an AML contract meet all the requirements of the Federal regulations at 30 CFR 874.16 and 875.20. In addition, the policy document provides that in the event that circumstances exist whereby the regulatory authority presumes that a notice of violation is being abated, the regulatory authority will not withhold award of the contract until the violation is actually abated. This is consistent with the presumption of abatement provisions of the Federal regulations.

Therefore, based upon the April 30, 1996, policy document submitted by North Dakota, which requires that the successful bidder for AML contracts must meet the eligibility criteria as provided by the Federal regulations at 30 CFR 874.16 and 875.20, the Director finds that NDCC 38–14.2–03(14), when used in conjunction with this policy document, is in compliance with 30 CFR 874.16 and 875.20. The Director approves the addition of the statute and supporting policy document to the North Dakota plan.

3. North Dakota PSC Procurement Procedures and Contract Procedures

North Dakota proposed revisions to various parts of the North Dakota PSC Procurement Procedures, including (1) section II, definitions and miscellaneous policy provisions, at subsection E, contract execution; subsection H, contractor selection; subsection I, final report; subsection K, preference; and subsection M, procurement officer; (2) section III, Public Service Commission and public contractor code of conduct,

at subsection B, gifts; and (3) section IV, procurement procedural requirements, at subsection B, procurement procedure; subsection C, method of procurement; and subsection D, unsolicited proposal. North Dakota also proposed to add appendices to this document at: A, evaluation criteria for request for proposals/competitive negotiations; B, sample scoring system for competitive negotiation type contracts; C, procedures for competitive contract negotiations; D, procedures for sole source procurement; and E, checklist for work statement (specific provisions) contracts and requests for proposals.

In addition, North Dakota proposed revisions in various parts of the North Dakota PSC Contract Procedures, including (1) section II, checklist for negotiating contracts, and (2) section III, standard contract provisions, at subsection B, construction contracts. North Dakota also proposed to add appendices to this document at: A, sample close-out letter to contractor; B, sample contract transmittal letter; C, sample detailed budget sheet for cost reimbursable contracts; D, checklist for negotiating contracts; E, Public Service Commission contract numbering system; F, conflict of interest disclaimer; G, checklist for work statement (specific provisions) contracts and request for proposals; and H, certification of payment to employees, suppliers, and subcontractors.

The Federal regulations at 30 CFR 884.14(a)(3) require, for State reclamation plan approval, that the State must have the policies necessary to carry out the State's AML plan. 30 CFR 884.13(d)(3) requires that the State reclamation plan must contain a description of the purchasing and procurement systems used by the designated State agency and that such systems must meet the requirements of the Office of Management and Budget Circular A–102, Attachment O (commonly referred to as the ''Grants Common Rule''). This circular is implemented in accordance with the Federal regulations at 43 CFR Part 12. 43 CFR 12.76(a), which pertains to States, provides that a State will, when procuring property and services under a grant, follow the same policies and procedures it uses for procurements from its non-Federal funds and that the State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.

The proposed revisions to the North Dakota procurement procedures and contract procedures are consistent with the Federal regulations at 30 CFR 884.13 (d)(3) and 43 CFR 12.76(a). Therefore, the Director finds that North Dakota's proposed revisions to the North Dakota PSC Procurement Procedures and Contract Procedures are in compliance with the requirements of the Federal regulations. The Director approves the proposed revisions.

4. North Dakota PSC Contract Policy 2–02–81(5) and Procurement Policy 2–01–81(5)

The North Dakota plan contains a document titled ''North Dakota Public Service Commission Contract and Procurement Policy,'' which consists of two instruments, both dated January 12, 1981: Procurement Policy 2–01–81(5), which was adopted on January 12, 1981, and revised on September 6, 1995; and Contract Policy 2–02–81(5), which was adopted on January 12, 1981, and revised on September 6, 1995. However, North Dakota neither showed nor described the changes it made to either existing policy.

The Federal regulation at 30 CFR 884.15(a) requires the Director to follow the procedures set out in 30 CFR 884.14 in approving or disapproving an amendment or revision of a State reclamation plan. 30 CFR 884.14(a)(3) requires that the State must have the policies necessary to carry out the State's AML plan. The contract and procurement policy included by North Dakota in this amendment is consistent with the requirement of the Federal regulations that the State reclamation plan include the policies necessary to carry out the plan. Therefore, the Director finds that the document titled ''North Dakota Public Service Commission Contract and Procurement Policy'' is in compliance with the Federal regulations at 30 CFR 884.14(a)(3). The Director approves this document.

5. Agency Organization

North Dakota submitted a revised organizational chart for the State's Public Service Commission. The chart indicates that 5.3 employees are devoted to Abandoned Mine Lands Division. OSM has confirmed that North Dakota intended to indicate that the staffing level is 5.8 employees. OSM has approved grants for a 5.8 employee staffing level.

The Federal regulation at 30 CFR 884.15(a) requires the Director to follow the procedures set out in 30 CFR 884.14 in approving or disapproving an amendment or revision of a State reclamation plan. 30 CFR 884.14(d) and (d)(1) require that the State reclamation plan must include a description of the administrative and management structure necessary to carry out the proposed plan, including the organization of the designated State agency authorized by the Governor of the State to administer this program and its relationship to other State organizations or officials that will participate in or augment the agency's reclamation capacity. Inherent within the ''administrative structure'' is the staffing level to carry out the plan.

The Director finds that 5.8 employees is an appropriate staffing level for carrying out the North Dakota plan and approves this level of staffing within the North Dakota PSC for administering the North Dakota plan.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 30 CFR 884.15(a) and 884.14(a)(2), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the North Dakota plan (administrative record Nos. ND–X–07 and ND–X–13).

U.S. Department of Agriculture Natural Resources Conservation Service (NRCS).—NRCS responded on April 30 and May 30, 1996, that it had no comments on the proposed program amendment (administrative record Nos. ND–X–08 and ND–X–16).

U.S. Department of Interior Fish and Wildlife Service (FWS).—FWS responded on May 3 and June 4, 1996, that it did not anticipate any significant impacts to fish and wildlife resources as a result of the proposed amendment and that it had no additional comments (administrative record Nos. ND–X–11 and ND–X–15).

U.S. Environmental Protection Agency (EPA).—EPA responded on May 6 and 31, 1996, that it had no comments on the amendment and that it concurred with the proposed revisions (administrative record Nos. ND–X–10 and ND–X–14).

U.S. Army Corps of Engineers.—The Army Corps of Engineers responded on May 9, 1996, that it found the changes proposed in the North Dakota plan to be satisfactory (administrative record No. ND–X–12). The Corps commented that it had noted a minor numbering error in

section IV of part I.C., North Dakota Public Service Commission Procurement Procedures, where a new paragraph (C.4.b.3) had been added and the subsequent paragraphs were not renumbered. OSM has passed the Army Corps of Engineer's comment on to the North Dakota Public Service Commission. It is left to the State to determine whether it will make this editorial change.

The Army Corps of Engineers also responded on June 7, 1996, that it found North Dakota's April 30, 1996, response to OSM's issue letter to be satisfactory (administrative record No. ND–X–17).

V. Director's Decision

Based on the above findings, the Director approves North Dakota's proposed plan amendment as submitted on September 20, 1995, and as supplemented with additional explanatory information on April 30, 1996.

The Director approves, as discussed in: finding No. 1 North Dakota Public Service Commission Procurement Procedures and Contract Procedures, concerning the title and table of contents; finding No. 2, NDCC 38–14.2–03(14), concerning bidder eligibility for abandoned mine land contracts; finding No. 3, North Dakota Public Service Commission Procurement Procedures and Contract Procedures, concerning the purchasing and procurement systems used by the North Dakota Public Service Commission in administering the State reclamation program; finding No. 4, North Dakota Public Service Commission Contract and Procurement Policy, concerning Contract Policy 2–02–81(5) and Procurement Policy 2–01–81(5), which are necessary to carry out the State reclamation plan; and finding No. 5, North Dakota Public Service Commission Organizational Chart dated September 1, 1995, which shows the number of employees needed to administer the State reclamation plan.

The Director approves the statute and plan provisions as proposed by North Dakota with the provision that they be fully promulgated in identical form to the statute and plan provisions submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 934, codifying decisions concerning the North Dakota plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans into conformity with the Federal standards without undue delay. Consistency of State and Federal standards required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of Tribe or State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribe or State AMLR plans and revisions thereof submitted by a Tribe or State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed Tribe or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Tribe or State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the Tribe or State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

6. Unfunded Mandates Reform Act

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or private sector.

List of Subjects in 30 CFR Part 934

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 10, 1996.

Peter A. Rutledge,

Acting Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 934—NORTH DAKOTA

1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 934.25 is amended by adding paragraph (e) to read as follows:

§ 934.25 Approval of abandoned mine land reclamation plan amendments.

* * * * *

(e) The revisions to and the addition of the following statute and plan provisions, as submitted to OSM on September 20, 1995, and as supplemented with explanatory information on April 30, 1996, are approved effective October 8, 1996: North Dakota Century Code (NDCC) 39–14.2–03(14), bidder eligibility for abandoned mine land contracts; North Dakota Public Service Commission (PSC) Procurement Procedures and Contract Procedures, both revised August 1995; North Dakota PSC Contract Policy 2–02–81(5) and Procurement Policy 2–01–81(5), both revised on September 6, 1995; and North Dakota PSC organizational chart dated September 1, 1995.

[FR Doc. 96–25722 Filed 10–7–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–96–085]

RIN 2115–AE84

Special Local Regulations for Marine Events; US Navy Fleet Week Parade of Ships; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements regulations governing the US Navy Fleet Week Parade of Ships, a marine event to be held in the Nauticus area of the Elizabeth River between Norfolk and Portsmouth, Virginia. These special local regulations are needed to control vessel traffic in the vicinity of Nauticus Museum due to the confined nature of the waterway and the expected vessel congestion during the US Navy Fleet Week Parade of Ships activities. The effect will be to restrict general navigation in the regulated area for the safety of participants and spectators.

EFFECTIVE DATES: The regulations in 33 CFR 100.501 are effective from 10 a.m. to 2 p.m., October 11, 1996.

FOR FURTHER INFORMATION CONTACT: LTJG R. Christensen, marine events coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, VA 23703–2199, (804) 483–8521.

SUPPLEMENTARY INFORMATION: On October 11, 1996, the US Navy will sponsor the Fleet Week Parade of Ships on the Elizabeth River in the vicinity of the Nauticus Museum. The event will consist of 10 naval vessels passing in review. A large number of spectator vessels are expected. Therefore, to ensure safety of both participants and spectators, 33 CFR 100.501 will be in effect for the event. Under provisions of 33 CFR 100.501, a vessel may not enter the regulated area unless it is registered as a participant with the event sponsor or it receives permission from the Coast Guard patrol commander. These restrictions will be in effect for a limited period and should not result in significant disruption of maritime traffic. The Coast Guard patrol commander will announce the specific periods during which the restrictions will be enforced.

Additionally, 33 CFR 100.72aa and 33 CFR 117.1007(b) will be in effect while 33 CFR 100.501 is in effect. Section 110.72aa establishes special anchorages which may be used by spectator craft. Section 117.1007(b) provides that the draw of the Berkley Bridge shall remain closed from one hour prior to the scheduled event until one hour after the scheduled event unless the Coast Guard patrol commander allows it to be opened for passage of commercial traffic.

Dated: September 18, 1996.

Kent H. Williams,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 96–25813 Filed 10–7–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AF01

Schedule for Rating Disabilities; Mental Disorders

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the sections of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities pertaining to Mental Disorders. The intended effect of this action is to update the portion of the rating schedule that addresses mental disorders to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

EFFECTIVE DATE: This amendment is effective November 7, 1996.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7230.

SUPPLEMENTARY INFORMATION: VA published in the Federal Register of October 26, 1995 (60 FR 54825–31) a proposal to amend 38 CFR 4.16 and 4.125 through 4.132, those sections of the rating schedule that address mental disorders. Interested persons were invited to submit written comments on or before December 26, 1995. We received comments from the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Vietnam Veterans of America, the American Psychological Association, the American Psychiatric Association, the Association of VA Chief Psychologists, and a concerned individual.

Two commenters felt that sleep and sexual disorders should be included in the rating schedule because they may affect employability and functioning.

Narcolepsy, a sleep disorder, is evaluated under diagnostic code (DC) 8108 in the neurological section of the schedule. We have published a proposed revision to the respiratory section of the schedule in the Federal Register of January 19, 1993 (58 FR 4962–69) that would add a diagnostic code (6846) and evaluation criteria for sleep apnea syndromes, another of the sleep disorders. However, in our judgment, other sleep disorders or sexual disorders would be service-connected so infrequently that they do not warrant separate diagnostic codes and evaluation criteria in the schedule. Any that are determined to be service-connected can be evaluated under ''other and unspecified neurosis'' (DC 9410) or other appropriate analogous condition and be evaluated under the general rating formula for mental disorders. (See 38 CFR 4.20.)

Another commenter suggested that we establish zero-percent evaluations for sexual dysfunction and personality disorders so that, although VA would not compensate for the conditions, they could be service-connected for treatment purposes.

A veteran is entitled to VA medical care for any mental disorder, including any sexual disorder, that is service-connected, i.e., is incurred in, or aggravated by, active military service. Whether a disability is service-connected, for treatment or compensation purposes, must be determined on a case by case basis. The determination is not based on whether the condition is included in the rating schedule; it is made under the VA regulations beginning at 38 CFR 3.303. Therefore, adding sexual dysfunction and personality disorders to the rating schedule could not have the effect of conferring service connection for treatment purposes, as the commenter believes, and we make no change based on this comment.

One commenter suggested that personality disorders should be included in the rating schedule.

As 38 CFR 4.1 emphasizes, the rating schedule is primarily a guide in the evaluation of disability resulting from diseases or injuries encountered as a result of or incident to military service. Since 38 CFR 3.303(c) specifically states that personality disorders are not diseases or injuries within the meaning of applicable legislation, they cannot be service-connected, and it would be inappropriate to include them in the rating schedule.

One commenter stated that the notice of proposed rulemaking erred in stating that DSM–IV (Diagnostic and Statistical Manual of Mental Disorders, 4th edition) categorizes dementia associated with alcoholism and drugs as subtypes of dementia due to a general medical condition. The commenter points out that DSM–IV has separate categories for dementias associated with alcoholism and other drugs and suggested that VA establish a category for substance-induced dementia.

We proposed that the title of DC 9326 be ''Dementia due to other neurologic or general medical conditions (endocrine disorders, metabolic disorders, drugs, alcohol, poisons, Pick's disease, brain tumors, etc.).'' In response to this comment, and for the sake of greater accuracy, we have revised the title to ''Dementia due to other neurologic or general medical conditions (endocrine disorders, metabolic disorders, Pick's disease, brain tumors, etc.) or that are substance-induced (drugs, alcohol, poisons).''

Another commenter suggested that by addressing the 12 dementias described in DSM–IV under only six categories, VA ignores important differences between specific types of dementias, such as whether or not they are treatable.

The six categories that we proposed, which are representative examples of the broad range of causes of dementias, are adequate for VA's purpose, which is to evaluate the severity of dementias when they occur. Since all dementias are evaluated under the General Rating Formula for Mental Disorders, increasing the number of categories would not affect evaluations.

The same commenter recommended that we retain the previous title of DC 9310, ''dementia, primary, degenerative,'' because it is more accurate and appropriate than ''dementia of the Alzheimer's type,'' as DSM–IV lists the condition.

DSM–IV is the basis for diagnosing and classifying mental disorders in the United States. Examination reports from both VA and non-VA practitioners will generally use the nomenclature adopted in DSM–IV, and it is important that the schedule use the same nomenclature whenever possible. Since the commenter offered no other reason for deviating from DSM–IV in this instance, we have retained the term ''dementia of the Alzheimer's type'' as proposed.

One commenter recommended that we retain the directions formerly found in §§ 4.125 and 4.126, which stated that the psychiatric nomenclature employed is based upon the Diagnostic and Statistical Manual of Mental Disorders; that it is imperative that rating personnel familiarize themselves thoroughly with this manual; and, that a disorder will be diagnosed in accordance with the APA manual (DSM).

The revised mental disorders sections contain similar directives about the use of DSM–IV as the former schedule had about DSM–III. If the diagnosis of a mental disorder does not conform to DSM–IV, or is not supported by the findings on the examination report, § 4.125(a) requires the rating agency to return the report to the examiner to substantiate the diagnosis. Further, a note in § 4.130 states that the nomenclature in the schedule is based on DSM–IV and that rating agencies must be thoroughly familiar with this manual to properly implement the directives in § 4.125 through § 4.129 and to apply the general rating formula for mental disorders in § 4.130. This information is direct and unambiguous, and therefore there is no need to include the same material in §§ 4.125 and 4.126.

Three commenters suggested the rating schedule cite only ''the current edition of the DSM'' rather than ''DSM–IV,'' which they felt would eliminate the need for a regulatory change when a new edition is published.

VA will need to study future revisions of the DSM to determine whether they warrant making changes in the schedule. However, such changes would require proper notice to the public through publication for review and comment in the Federal Register; having the rating schedule refer only to the ''current edition'' would not give sufficient notice under the Administrative Procedures Act. Also, VA does not avoid the need to revise the rating schedule by referring to the ''current edition'' of the DSM. This revision, for example, makes substantive revisions to the schedule itself based upon DSM–IV. If the regulations were to refer to the ''current edition'' of DSM, and another edition was published without the schedule being revised in accordance with that edition, the regulations would be internally inconsistent.

Three commenters objected to the proposed language in § 4.126(a) that would require the rating agency to assign an evaluation based on all the evidence of record ''rather than on the examiner's assessment of the level of disability at the moment of the examination.'' Two commenters suggested that revising the phrase to ''rather than solely on the examiner's assessment of the level of disability at the moment of the examination'' might be clearer.

Since such a change might more clearly indicate that the examiner's assessment is a significant, but not the only, factor in determining the level of disability, we have revised the sentence as the commenters suggested.

One commenter suggested two changes to the proposed § 4.126(a). Because the commenter felt the proposed language does not clearly instruct the adjudicator to assess current findings in light of the history of the disability, the commenter recommended that the regulation direct the rating agency to assign an evaluation based on all evidence of record ''as it bears on current occupational and social impairment rather than solely on isolated examination findings which may only represent episodic changes.'' The commenter also suggested that in order to prevent rating agencies from overestimating the value of short periods of remission, we modify the language to require rating agencies to consider the veteran's capacity for adjustment during periods of *sustained* remission.

The language proposed for § 4.126(a) reinforces § 4.2, which requires the rating agency to interpret reports of examination in light of the entire recorded history. Furthermore, § 4.126(a) requires rating agencies to consider the length of remissions and the veteran's capacity for adjustment during periods of remission, and to assign an evaluation based on all evidence of record that bears on occupational and social impairment. ''Sustained'' is a subjective term that may not be applied consistently, and, in our judgment, the language as proposed is more likely to assure that the length of remissions is considered and given appropriate weight in the context of all evidence of record. We have, therefore, made no change based on these suggestions.

One commenter opposed the proposed deletion of the statement in former § 4.130 that ''the examiner's analysis of the symptomatology'' is one of the ''essentials'' and objected to the statement in the preamble that VA will no longer rely on a subjective determination as to the degree of impairment.

The evaluation levels in the proposed general rating formula for mental disorders are based on the effects of the signs and symptoms of mental disorders. To be adequate for evaluation purposes under that formula, an examination report must describe an individual's signs and symptoms as well as their effects on occupational and social functioning. In essence, we have restructured the evaluation criteria so

that it is the severity of the effects of the symptoms as described by the examiner that determines the rating. As a result, the statement previously contained in § 4.130 regarding the examiner's analysis of symptomatology would be redundant and is no longer necessary. We have therefore made no changes based on this comment.

Another commenter suggested that the use of the word ''severe'' at the 70-percent level in the general rating formula for mental disorders violates the principle that vague, subjective terms should not be used in the rating schedule. The commenter also contends that the use of ''severe'' by an examining doctor to characterize a mental disorder will often be used as the sole basis for granting a 70-percent evaluation because a 70-percent evaluation requires ''severe'' occupational and social impairment. The commenter therefore suggested that we delete the word ''severe'' in the general rating formula for mental disorders.

Since it is VA's intent that the evaluation will be determined by the examiner's description of the signs and symptoms and their effects rather than by an overall characterization of the condition, we have deleted the word ''severe'' from the 70-percent criteria in the general rating formula for mental disorders, as the commenter suggested.

One commenter suggested we require a social and industrial survey as an integral part of an overall rating evaluation.

A social and industrial survey is not necessary to evaluate every mental disorder; the information provided by the examiner will generally be sufficient to determine the proper evaluation. Whether the additional information provided by a social and industrial survey is necessary to assure an accurate evaluation is best determined by either the examiner or rating agency on a case by case basis. Requiring a survey in every case would serve no purpose and would therefore cause unwarranted delays in the processing of claims.

One commenter stated that a 10-percent evaluation when symptoms are controlled by continuous medication is too low to allow for the side effects of medication, which may themselves be incapacitating.

In our judgment, 10 percent is an adequate evaluation in the average situation where symptoms of a mental disorder are controlled by continuous medication. 38 CFR 3.310(a) states that a disability that is proximately due to a service-connected disease or injury shall be service-connected and considered as part of the original condition. Therefore, disabling conditions that result from medication for a service-connected mental disorder and that warrant more than a ten percent evaluation can be service-connected and separately evaluated under an appropriate diagnostic code.

One commenter suggested that we adopt separate rating formulae tailored to each psychiatric disorder rather than using a general rating formula for mental disorders as proposed.

Many of the signs, symptoms, and effects of mental disorders are not unique to specific diagnostic entities, as evidenced by the fact that the Global Assessment of Functioning Scale in DSM-IV uses a single set of criteria for assessing psychological, social, and occupational functioning in all mental disorders. The symptoms in the general rating formula for mental disorders are representative examples of symptoms that often result in specific levels of disability. In our judgment, using a general rating formula for mental disorders is a better way to assure that mental disorders producing similar impairment will be evaluated consistently.

One commenter suggested that we evaluate post-traumatic stress disorder (PTSD) not under a general rating formula for mental disorders but under a separate formula based on the frequency of symptoms particular to PTSD, i.e., nightmares, flashbacks, troubling intrusive memories, uncontrollable rage, and startle response.

The distinctive PTSD symptoms listed by the commenter are used to diagnose PTSD rather than evaluate the degree of disability resulting from the condition. Although certain symptoms must be present in order to establish the diagnosis of PTSD, as with other conditions it is not the symptoms, but their effects, that determine the level of impairment. For example, it is not the presence of ''flashbacks,'' per se, but their effects, such as impaired impulse control, anxiety, or difficulty adapting to stressful situations, that determine the evaluation. We have, therefore, made no changes based on this suggestion.

One commenter argued that the proposed criteria for a total evaluation include more symptoms of thought disorders than of mood disorders, and, as a result, mood disorders are less likely than thought disorders to be evaluated as totally disabling.

As previously discussed, it is the severity of the effects of a mental disorder that determine the rating. To be assigned a 100 percent rating, a mental disorder must cause total occupational and social impairment. Mood disorders that are characterized by grossly inappropriate behavior, persistent danger of hurting self or others, or intermittent inability to perform activities of daily living, may cause total occupational and social impairment in some individuals. Since the evaluation criteria would clearly support a total evaluation for a mood disorder under those circumstances, we make no change based on this comment.

Another commenter suggested that we determine evaluation levels on the basis of an individual's earnings. For example, if there were no gainful employment, or if earnings did not exceed $3600 per year over a two year period, a disability would be considered totally disabling.

Ratings are based primarily upon the average impairment in earning capacity, that is, upon the economic or industrial handicap which must be overcome and not from individual success in overcoming it (see 38 CFR 4.15). Defining levels of disability for mental disorders in terms of an individual's earnings would be inconsistent with that principle and, furthermore, would not take into account other variables that might affect earnings, such as the presence and severity of other service-connected or non-service-connected disabilities, differences in the prevailing wage in different localities, part time employment, etc. For these reasons, it is not feasible to evaluate mental disabilities based on the veteran's earnings.

One commenter said that the evaluation criteria for the 50-percent and the 70-percent levels are too complicated and will therefore be difficult to apply; however, the commenter offered no alternative criteria for us to consider.

The criteria in the general rating formula for mental disorders include examples and indicate specific effects of social and occupational impairment for various evaluation levels. The 50-percent level, for example, requires ''reduced reliability and productivity,'' while the 70-percent level requires ''deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood.'' Examples of signs and symptoms that are typically associated with that level of impairment are listed at each level. This formula offers sufficient guidance to the rating agency to assure consistent evaluations, but not so much detail that it is impractical or inflexible. Since the commenter offered no alternative method of evaluation for us to consider, we have adopted the general rating formula as proposed.

One commenter suggested that § 4.127 be revised to establish that mental retardation and personality disorders, while not disabilities for compensation purposes, can be considered in determining whether a veteran is permanently and totally disabled for non-service-connected pension purposes.

As proposed, § 4.127 would have stated that mental retardation and personality disorders would not be considered as ''disabilities under the terms of the schedule.'' For the sake of clarity, we have revised the proposed language of § 4.127 to state that those conditions are not ''diseases or injuries for compensation purposes, and, except as provided in § 3.310(a) of this chapter, disability resulting from them may not be service-connected.''

One commenter said that § 4.127 should explain that personality disorders may be service-connected secondary to epilepsy and other conditions.

38 CFR 3.310(a) states that a disability that is proximately due to or the result of a service-connected disease or injury shall be service connected and considered part of the original condition. Therefore, organic personality disorders that develop secondary to service-connected head trauma, epilepsy, etc., (called ''personality change due to a general medical condition'' in DSM–IV) will be service-connected as secondary to those conditions and evaluated under the general rating formula for mental disorders. To reinforce that principle, we have added the phrase, ''except as provided in § 3.310(a) of this chapter,'' to § 4.127, as discussed above. For the sake of clarity, we have also revised the title of DC 9327, organic mental disorder, other, to include ''personality change due to a general medical condition.''

The former § 4.127 addressed mental deficiency and personality disorders and stated that ''superimposed psychotic disorders developing after enlistment, i.e., mental deficiency with psychotic disorder, or personality disorder with psychotic disorder, are to be considered as disabilities analogous to, and ratable as, schizophrenia, unless otherwise diagnosed.'' We proposed to revise § 4.127 to state that a mental disorder that is superimposed upon, but clearly separate from, mental retardation or a personality disorder may be a disability for VA compensation purposes.

Two commenters contend that it is not feasible to attribute signs and symptoms to one of two or more coexisting conditions, and another commenter submitted a medical statement addressing the potential difficulty of such an undertaking.

Our intent in proposing the revision was to clarify that any mental disorders, not only psychotic disorders, that are incurred or aggravated in service may be disabilities for VA compensation purposes, even if superimposed upon mental retardation or a personality disorder. In view of the commenters' concerns, however, and in order to prevent any misunderstanding, we have revised this section. We deleted ''a mental disorder that is superimposed upon, but clearly separate from, mental retardation or a personality disorder may be a disability for VA compensation purposes'' in § 4.127 and substituted the sentence, ''However, disability resulting from a mental disorder that is superimposed upon mental retardation or a personality disorder may be service-connected.'' The need to distinguish the effects of one condition from those of another is not unique to mental disorders, but occurs whenever two conditions, one service-connected and one not, affect similar functions or anatomic areas. When it is not possible to separate the effects of the conditions, VA regulations at 38 CFR 3.102, which require that reasonable doubt on any issue be resolved in the claimant's favor, clearly dictate that such signs and symptoms be attributed to the service-connected condition.

One commenter stated that the proposed change to § 4.127 precludes personality disorders from being considered as part of a service-connected disability, which the commenter felt represented an arbitrary change.

The previous schedule merely directed that psychotic disorders superimposed upon mental deficiency or personality disorder be considered analogous to, and ratable as, schizophrenia. It did not address how to carry out the evaluation, or specifically how to assess the signs and symptoms of the preexisting condition. The revised § 4.127 represents no change in rating procedures, except for expanding this provision to include all mental disorders. As explained above, procedures for determining an evaluation in such cases are not unique to mental disorders and have not been changed.

One commenter felt that the development of a mental disorder during service should establish aggravation of any preexisting personality disorder, for purposes of disability compensation; another felt that a personality disorder that worsens during service could affect employability and thus warrant disability compensation.

Section 4.127 establishes that mental retardation and personality disorders are not diseases or injuries for VA compensation purposes and that disability resulting from them may not be service-connected. Service connection of personality disorders, whether on a direct basis or by aggravation, is therefore prohibited, and we have made no change based on these comments.

The previous rating schedule stated that social inadaptability was to be evaluated only as it affected industrial inadaptability and was not to be used as the sole basis for assigning a percentage evaluation (§ 4.129). We proposed to retain this concept by stating in § 4.126(b) that the rating agency will consider the extent of social impairment, but shall not assign an evaluation solely on the basis of social impairment. Three commenters addressed this issue.

One commenter suggested that we revise § 4.126(b) to place greater emphasis on social impairment as a good indicator of the level of industrial impairment.

The evaluation criteria in the general rating formula for mental disorders include facets of both occupational and social impairment, and both may be taken into consideration in the evaluation of a mental disorder. Revision of § 4.126(b) to place greater emphasis on social impairment is therefore unnecessary because the extent of social impairment is an inherent part of the evaluation criteria. We have therefore made no revision based on this comment.

Two commenters suggested that we revise § 4.126(b) to allow service connection at zero percent for conditions that produce social impairment, but no occupational impairment, so that veterans would be eligible for VA medical treatment.

As previously discussed, service-connected conditions are entitled to VA medical care, but whether a condition is service-connected is determined under the VA regulations beginning at 38 CFR 3.303, not under the rating schedule. It would therefore be inappropriate to adopt this suggestion.

Two commenters urged that VA include substance abuse disorders in the disability rating schedule because they frequently affect employability, and any mental disorder that affects employment should be covered by the rating system.

The most common substance abuse disorders are abuse of alcohol and drugs. Since they are addressed

elsewhere in VA regulations (see 38 CFR 3.1 and 3.301(a)), they need not be included in the rating schedule.

Two commenters felt that the term ''psychic trauma'' in the title of § 4.129, Mental disorders due to psychic trauma, connotes extrasensory or paranormal influences on mental processes and suggested that we substitute the term ''traumatic stress disorders.''

Based on this suggestion, we have retitled § 4.129 as ''Mental disorders due to traumatic stress.''

As proposed, § 4.125 would require a rating agency to determine whether a change in diagnosis is a progression of a prior diagnosis, a correction of an error in a previous diagnosis, or the development of a new and separate condition. Two commenters suggested that a fourth reason for a change in diagnosis, the use of a new diagnostic term not previously available to rating agencies, be added to the list.

A ''new diagnostic term not previously available to rating agencies'' necessarily implies a diagnostic term that has evolved since publication of DSM–IV. 38 CFR 4.125(a) requires that the diagnosis of a mental disorder must conform to DSM–IV. Therefore, the only diagnostic terms for mental disorders that are acceptable for rating purposes are those in DSM–IV. Appendices in DSM–III, DSM–III–R, and DSM–IV highlight changes in terminology from the previous DSM editions, and rating agencies may refer to them to reconcile differences from earlier terminology, if necessary. However, diagnostic terms that postdate DSM–IV are not acceptable for rating purposes, and we make no change based on this comment.

If a mental disorder has been assigned a total evaluation due to a continuous period of hospitalization lasting six months or more, we proposed to require in § 4.128 that the rating agency continue the total evaluation indefinitely and schedule an examination six months after the veteran is discharged or released to nonbed care and that a change in evaluation based on that examination would be subject to the notice and effective date provisions of 38 CFR 3.105(e). One commenter suggested that we add references to 38 CFR 3.344, ''Stabilization of disability evaluations,'' and 3.340, ''Total and permanent total ratings and unemployability.''

Sections 3.340 and 3.344 are not limited to mental disorders, but are generally applicable, and, as such, must always be considered by rating agencies when revising evaluations. The provisions of § 4.128 ensure a total evaluation during a period of adjustment after a lengthy hospitalization for a mental disorder. Since §§ 3.340 and 3.344 would not apply until that temporary total evaluation is revised following the examination required by § 4.128, we make no change based on this comment.

One commenter suggested that we retain in § 4.129 historical information about stress-induced disorders formerly found in § 4.131.

The expository material that we proposed to remove from § 4.131 described the etiology and diagnosis of stress-induced disorders; it did not set forth VA policy or establish procedures that rating agencies must follow when evaluating those conditions. That material is therefore not appropriate in a regulation, and we have made no change based on this suggestion.

One commenter objected to the proposed removal of language from § 4.130 specifically stating that two of the most important determinants of disability are time lost from gainful work and decrease in work efficiency.

Those principles are reflected in the evaluation criteria of the general rating formula for mental disorders, which evaluate the signs and symptoms of mental disorders according to their effects, i.e., reduced reliability and productivity, occasional decreases in work efficiency, intermittent periods of inability to perform occupational work tasks, etc. Comments about work attendance and efficiency would be redundant in § 4.130, and we have made no change based on this comment.

38 CFR 4.16 provides that any veteran unable to secure or follow a substantially gainful occupation because of service-connected disabilities will be awarded a total evaluation even though the schedular evaluation is less than total; it also establishes criteria for establishing entitlement to such extra-schedular total evaluations. We proposed to delete § 4.16(c), which stated that mental disorders meeting certain criteria should be assigned a 100-percent evaluation under the schedule, rather than an extra-schedular total evaluation. One commenter did not object to the proposed deletion of § 4.16(c), but noted that, for a veteran with a single disability, § 4.16(a) requires that the disability be 60 percent or more disabling to establish entitlement to a total evaluation due to unemployability. The commenter stated that because there is no 60-percent evaluation level in the general rating formula for mental disorders, veterans with mental disorders would be disadvantaged. The commenter recommended that we revise § 4.16(a) to require a 50-percent rating for a single disability rather than a 60-percent rating, and to state that total disability ratings shall (rather than may) be assigned when a veteran's disabilities satisfy specified criteria.

Since revisions to § 4.16(a) and (b), which establish general criteria for total disability evaluations for compensation because an individual is unemployable, are beyond the scope of this rulemaking, which is specific to mental disorders, we make no change. VA is addressing the issue of individual unemployability, including the provisions of 38 CFR 4.16(a) and (b), in a separate rulemaking (RIN 2900–AH21). We note, however, that veterans with mental disorders are not disadvantaged under current § 4.16. Well-established regulatory procedures in 38 CFR 4.16(b) authorize VA to assign a total evaluation for unemployability to a veteran with a single disability evaluated less than 60-percent disabling, if the disability renders the veteran unemployable.

One commenter encouraged VA to recognize the value of objective assessment by psychological and neuropsychological tests and incorporate the use of these diagnostic tools within the disability rating system.

The use of specific diagnostic tools, such as psychological and neuropsychological testing, may be requested at the discretion of an examiner. However, since such tests are primarily for diagnostic, rather than evaluation, purposes, it would serve no purpose to address them in the rating schedule, which is a guide to the evaluation of disabilities.

One commenter suggested that we revise the cross references in 38 CFR 4.13 to reflect changes adopted in this rulemaking.

We have amended 38 CFR 4.13 accordingly.

The same commenter suggested that we revise the note regarding mental disorders in epilepsies under diagnostic codes 8910–8914 in the schedule for rating neurological disorders to correct the diagnostic terms and cross-referenced diagnostic codes.

The note in § 4.124a is included in the schedule for rating neurological conditions and convulsive disorders and is therefore beyond the scope of this rulemaking. VA is revising the portion of the rating schedule that addresses neurological disorders in a separate rulemaking, and we will address those issues in that revision.

One commenter recommended that VA consider incorporating the International Classification of Impairments, Disabilities, and Handicaps (ICIDH) into the VA schedule for rating mental disorders. The ICIDH, which focuses on functionality, was

developed and issued by the World Health Organization (WHO), in 1980. WHO is currently revising it. When the revised version is published, VA will review it to assess its usefulness for VA rating purposes.

On further review, we have revised the proposed language of § 4.129 for the sake of clarity and have also updated the term ''rating board'' to ''rating agency'' throughout the mental disorders sections.

VA appreciates the comments submitted in response to the proposed rule, which is now adopted as a final rule with the changes noted above.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This rule has been reviewed under Executive Order 12866 by the Office of Management and Budget.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: September 9, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4 is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155.

Subpart A—[Amended]

2. In § 4.13, the third sentence is revised to read as follows:

§ 4.13 Effect of change of diagnosis.

* * * * *

The relevant principle enunciated in § 4.125, entitled ''Diagnosis of mental disorders,'' should have careful attention in this connection.

* * * * *

§ 4.16 [Amended]

3. In § 4.16, paragraph (c) is removed.

Subpart B—[Amended]

4. Section 4.125 is revised to read as follows:

§ 4.125 Diagnosis of mental disorders.

(a) If the diagnosis of a mental disorder does not conform to DSM–IV or is not supported by the findings on the examination report, the rating agency shall return the report to the examiner to substantiate the diagnosis.

(b) If the diagnosis of a mental disorder is changed, the rating agency shall determine whether the new diagnosis represents progression of the prior diagnosis, correction of an error in the prior diagnosis, or development of a new and separate condition. If it is not clear from the available records what the change of diagnosis represents, the rating agency shall return the report to the examiner for a determination.

(Authority: 38 U.S.C. 1155)

5. Section 4.126 is revised to read as follows:

§ 4.126 Evaluation of disability from mental disorders.

(a) When evaluating a mental disorder, the rating agency shall consider the frequency, severity, and duration of psychiatric symptoms, the length of remissions, and the veteran's capacity for adjustment during periods of remission. The rating agency shall assign an evaluation based on all the evidence of record that bears on occupational and social impairment rather than solely on the examiner's assessment of the level of disability at the moment of the examination.

(b) When evaluating the level of disability from a mental disorder, the rating agency will consider the extent of social impairment, but shall not assign an evaluation solely on the basis of social impairment.

(c) Delirium, dementia, and amnestic and other cognitive disorders shall be evaluated under the general rating formula for mental disorders; neurologic deficits or other impairments stemming from the same etiology (e.g., a head injury) shall be evaluated separately and combined with the evaluation for delirium, dementia, or amnestic or other cognitive disorder (see § 4.25).

(d) When a single disability has been diagnosed both as a physical condition and as a mental disorder, the rating agency shall evaluate it using a diagnostic code which represents the dominant (more disabling) aspect of the condition (see § 4.14).

(Authority: 38 U.S.C. 1155)

6. Section 4.127 is revised to read as follows:

§ 4.127 Mental retardation and personality disorders.

Mental retardation and personality disorders are not diseases or injuries for compensation purposes, and, except as provided in § 3.310(a) of this chapter, disability resulting from them may not be service-connected. However, disability resulting from a mental disorder that is superimposed upon mental retardation or a personality disorder may be service-connected.

(Authority: 38 U.S.C. 1155)

7. Section 4.128 is revised to read as follows:

§ 4.128 Convalescence ratings following extended hospitalization.

If a mental disorder has been assigned a total evaluation due to a continuous period of hospitalization lasting six months or more, the rating agency shall continue the total evaluation indefinitely and schedule a mandatory examination six months after the veteran is discharged or released to nonbed care. A change in evaluation based on that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.

(Authority: 38 U.S.C. 1155)

8. Section 4.129 is revised to read as follows:

§ 4.129 Mental disorders due to traumatic stress.

When a mental disorder that develops in service as a result of a highly stressful event is severe enough to bring about the veteran's release from active military service, the rating agency shall assign an evaluation of not less than 50 percent and schedule an examination within the six month period following the veteran's discharge to determine whether a change in evaluation is warranted.

(Authority: 38 U.S.C. 1155)

§§ 4.130 and 4.131 [Removed]

9. Sections 4.130 and 4.131 are removed.

§ 4.132 [Redesignated as § 4.130]

10. Section 4.132 is redesignated as § 4.130 and newly redesignated § 4.130 is revised to read as follows:

§ 4.130 Schedule of ratings—mental disorders.

The nomenclature employed in this portion of the rating schedule is based upon the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, of the American Psychiatric Association (DSM–IV). Rating agencies must be thoroughly familiar with this manual to properly implement the directives in § 4.125 through § 4.129 and

to apply the general rating formula for mental disorders in § 4.130. The schedule for rating for mental disorders is set forth as follows:

	Rating
Schizophrenia and Other Psychotic Disorders	
9201 Schizophrenia, disorganized type 9202 Schizophrenia, catatonic type 9203 Schizophrenia, paranoid type 9204 Schizophrenia, undifferentiated type 9205 Schizophrenia, residual type; other and unspecified types 9208 Delusional disorder 9210 Psychotic disorder, not otherwise specified (atypical psychosis) 9211 Schizoaffective disorder	
Delirium, Dementia, and Amnestic and Other Cognitive Disorders	
9300 Delirium 9301 Dementia due to infection (HIV infection, syphilis, or other systemic or intracranial infections) 9304 Dementia due to head trauma 9305 Vascular dementia 9310 Dementia of unknown etiology 9312 Dementia of the Alzheimer's type 9326 Dementia due to other neurologic or general medical conditions (endocrine disorders, metabolic disorders, Pick's disease, brain tumors, etc.) or that are substance-induced (drugs, alcohol, poisons) 9327 Organic mental disorder, other (including personality change due to a general medical condition)	
Anxiety Disorders	
9400 Generalized anxiety disorder 9403 Specific (simple) phobia; social phobia 9404 Obsessive compulsive disorder 9410 Other and unspecified neurosis 9411 Post-traumatic stress disorder 9412 Panic disorder and/or agoraphobia 9413 Anxiety disorder, not otherwise specified	
Dissociative Disorders	
9416 Dissociative amnesia; dissociative fugue; dissociative identity disorder (multiple personality disorder) 9417 Depersonalization disorder	
Somatoform Disorders	
9421 Somatization disorder 9422 Pain disorder 9423 Undifferentiated somatoform disorder 9424 Conversion disorder 9425 Hypochondriasis	
Mood Disorders	
9431 Cyclothymic disorder 9432 Bipolar disorder 9433 Dysthymic disorder 9434 Major depressive disorder 9435 Mood disorder, not otherwise specified	
Chronic Adjustment Disorder	
9440 Chronic adjustment disorder General Rating Formula for Mental Disorders: Total occupational and social impairment, due to such symptoms as: gross impairment in thought processes or communication; persistent delusions or hallucinations; grossly inappropriate behavior; persistent danger of hurting self or others; intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene); disorientation to time or place; memory loss for names of close relatives, own occupation, or own name	100
Occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood, due to such symptoms as: suicidal ideation; obsessional rituals which interfere with routine activities; speech intermittently illogical, obscure, or irrelevant; near-continuous panic or depression affecting the ability to function independently, appropriately and effectively; impaired impulse control (such as unprovoked irritability with periods of violence); spatial disorientation; neglect of personal appearance and hygiene; difficulty in adapting to stressful circumstances (including work or a worklike setting); inability to establish and maintain effective relationships	70

	Rating
Occupational and social impairment with reduced reliability and productivity due to such symptoms as: flattened affect; circumstantial, circumlocutory, or stereotyped speech; panic attacks more than once a week; difficulty in understanding complex commands; impairment of short- and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks); impaired judgment; impaired abstract thinking; disturbances of motivation and mood; difficulty in establishing and maintaining effective work and social relationships	50
Occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks (although generally functioning satisfactorily, with routine behavior, self-care, and conversation normal), due to such symptoms as: depressed mood, anxiety, suspiciousness, panic attacks (weekly or less often), chronic sleep impairment, mild memory loss (such as forgetting names, directions, recent events)	30
Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or; symptoms controlled by continuous medication	10
A mental condition has been formally diagnosed, but symptoms are not severe enough either to interfere with occupational and social functioning or to require continuous medication	0
Eating Disorders	
9520 Anorexia nervosa 9521 Bulimia nervosa Rating Formula for Eating Disorders:	
Self-induced weight loss to less than 80 percent of expected minimum weight, with incapacitating episodes of at least six weeks total duration per year, and requiring hospitalization more than twice a year for parenteral nutrition or tube feeding	100
Self-induced weight loss to less than 85 percent of expected minimum weight with incapacitating episodes of six or more weeks total duration per year	60
Self-induced weight loss to less than 85 percent of expected minimum weight with incapacitating episodes of more than two but less than six weeks total duration per year	30
Binge eating followed by self-induced vomiting or other measures to prevent weight gain, or resistance to weight gain even when below expected minimum weight, with diagnosis of an eating disorder and incapacitating episodes of up to two weeks total duration per year	10
Binge eating followed by self-induced vomiting or other measures to prevent weight gain, or resistance to weight gain even when below expected minimum weight, with diagnosis of an eating disorder but without incapacitating episodes	0

Note: An incapacitating episode is a period during which bed rest and treatment by a physician are required.

(Authority: 38 U.S.C. 1155)

[FR Doc. 96–25569 Filed 10–7–96; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 111

Mailing Restrictions for Domestic Packages Weighing 16 Ounces or More

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth revised Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement restrictions on the deposit into collection receptacles of domestic packages weighing 16 ounces (1 pound) or more that bear postage stamps. This final rule extends provisions previously adopted for similar packages sent to international and APO/FPO destinations.

EFFECTIVE DATE: August 16, 1996.

FOR FURTHER INFORMATION CONTACT: James E. Orlando or William F. Carleton, (202) 268–4360.

SUPPLEMENTARY INFORMATION: On September 27, 1995, the Postal Service published a final rule in the Federal Register announcing restrictions on the mailing of packages weighing 16 ounces or more to international and APO/FPO destinations (60 FR 49755–49758). These restrictions were promulgated to enhance airline security measures and to protect the traveling public, postal employees, and postal contractors who transport U.S. mail. The Postal Service developed these changes in package collection procedures in consultation with the Federal Aviation Administration (FAA).

The Postal Service has now determined, for the same reasons, to extend similar restrictions to packages that are deposited into collection receptacles and mailed to domestic addresses. These added provisions will affect only First-Class/Priority Mail packages weighing 16 ounces or more that bear postage stamps and that are mailed from domestic addresses. These new restrictions do not affect Express Mail, Periodicals (former second-class mail), or Standard Mail (B) (former fourth-class mail) at any weight up to the maximum of 70 pounds; any item weighing less than 16 ounces; and any package, regardless of weight, for which postage is paid with a postage meter or a permit imprint.

Under the revised standards set forth below, domestic First-Class/Priority Mail packages bearing postage stamps and weighing 16 ounces or more may not be deposited into collection receptacles, including street, lobby, and apartment boxes, or left in rural mailboxes. Instead, these packages must be presented by the sender at the local post office. A sender known to a Postal Service delivery employee may also give such packages to a city, rural, or highway contract letter carrier.

Any affected package weighing 16 ounces or more that requires air transportation and that is deposited into a collection receptacle will be returned to the sender with a note asking the sender to present the package personally at the local post office or to a city, rural, or highway contract letter carrier if the sender is known to the carrier. Postage on an item improperly deposited into a collection receptacle may be used when the item is remailed at the post office. A sender who does not wish to remail a returned item may apply for a postage refund for the item at any post office. Any piece without a return address will be sent to a Postal Service mail recovery center to determine the identity of the sender for appropriate return.

These changes will remain in effect until further notice. For most consumers and businesses, there should be little impact because the Postal Service believes that less than one percent of its package volume is in the affected

categories. Although some customers may view these changes as an inconvenience, the Postal Service believes that the increased security these additional procedures may bring about outweigh their negative impact. In addition, as discussed above, customers will retain the opportunity to obtain a full range of package services at their local post offices or from their rural letter carriers. In view of these factors, the Postal Service has determined that this change to its regulations is primarily a matter of internal practice and procedures that will not substantially affect the rights or obligations of private parties. Moreover, because of the need to act expeditiously in this matter to protect the safety of the public and postal employees and contractors, the Postal Service has determined that the notice and public comment procedure on this change would be impracticable and inconsistent with the public interest and that this change should take effect immediately.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual as set forth below:

D DEPOSIT, COLLECTION, AND DELIVERY

* * * * *

D100 First-Class Mail

* * * * *

2.0 MAIL DEPOSIT

[Revise 2.1 and 2.3 and add new 2.6 to read as follows:]

2.1 Single-Piece and Card Rates

Single-piece rate and card rate First-Class Mail, and single-piece rate Priority Mail weighing less than 16 ounces, may be deposited into any collection box, mailchute, or mail receptacle or at any place where mail is accepted if the full required postage is paid with adhesive stamps. Metered mail must be deposited in locations under the jurisdiction of the licensing post office, except as permitted under P030. Permit imprint mail must be presented at a post office under P040 or P700.

* * * * *

2.3 Zoned Rate Priority Mail

Unless restricted by 2.6, pickup service for Priority Mail is available under D010. Single-piece rate Priority Mail paid with adhesive stamps and weighing 16 ounces or more must be presented at a post office retail counter or handed to a postal carrier as prescribed by 2.6. Metered mail must be deposited in locations under the jurisdiction of the licensing post office, except as permitted under P030. Permit imprint mail must be presented at a post office under P040 or P700.

* * * * *

2.6 Restriction

Single-piece rate Priority Mail weighing 16 ounces or more must be presented at a post office retail counter if postage is paid with adhesive stamps. The sender may be required to provide identification before the mail is accepted by the USPS. Such mail may be presented by a sender known to the postal carrier at the sender's residence or place of business. Priority Mail weighing 16 ounces or more and not complying with the requirements of this section is returned to the sender for proper deposit.

* * * * *

E ELIGIBILITY

E000 Special Eligibility Standards

E010 Overseas Military Mail

1.0 BASIC INFORMATION

* * * * *

[Add new 1.7 to read as follows:]

1.7 Restriction

Regardless of postage payment method, the following types of mail weighing 16 ounces or more must be presented at a post office retail counter: all single-piece rate Priority Mail; all single-piece rate Parcel Post, Bound Printed Matter, and Special Standard Mail; and all Library Mail. The sender may be required to provide identification before the mail is accepted by the USPS. Such mail may be presented by a sender known to the postal carrier at the sender's residence or place of business. Mail not complying with the requirements of this section and requiring air transportation is returned to the sender for proper deposit.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–25782 Filed 10–7–96; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPPTS–62152A; FRL–5377–2]

Asbestos-containing Materials in Schools; State Request for Waiver From Requirements; Notice of Final Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on requested waiver.

SUMMARY: EPA is issuing a final decision which approves the request of Maine for a waiver from the requirements of 40 CFR part 763, subpart E, Asbestos-Containing Materials in Schools.

EFFECTIVE DATE: November 7, 1996.

ADDRESSES: A copy of the complete waiver application submitted by the State is available from the TSCA Public Docket Office. A copy is also on file and may be reviewed at the EPA Region 1 office in Boston, Massachusetts. TSCA Docket Receipt (7407), Office of Pollution Prevention and Toxics, Rm. NE-B607, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 EPA, Region 1 (CPT) JFK Federal Building, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Susan B Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E-543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554-1404.

SUPPLEMENTARY INFORMATION:

I. Background

This document is issued under the authority of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2641, *et seq.* TSCA Title II was enacted as part of the Asbestos Hazard Emergency Response Act 1986 (AHERA), Pub. L. 99 519. AHERA is the abbreviation commonly used to refer to the statutory authority for EPA's rules affecting asbestos in schools and will be used in this document. EPA issued a final rule in the Federal Register of October 30, 1987 (52 FR 41846), the Asbestos-Containing Materials in Schools Rule (the Schools Rule, 40 CFR part 763, subpart E), which requires all Local Education Agencies (LEAs) to identify asbestos-containing building materials (ACBMs) in their school buildings and to take appropriate actions to control the release of asbestos fibers.

Under section 203 of AHERA, EPA may, upon request by a State Governor

and after notice and comment and opportunity for a public hearing in the State, waive in whole or part the requirements of the Schools Rule, if the State has established and is implementing or intends to implement an ongoing program of asbestos inspection and management which is at least as stringent as the requirements of the rule. Section 763.98 (40 CFR 763.98) sets forth the procedures to implement this statutory provision. The Schools Rule requires that specific information be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and recision of waivers granted to States. The Agency encourages States to establish and manage their own school regulatory programs under the AHERA waiver provision. EPA issued a notice in the Federal Register of March 5, 1996, (61 FR 8619; FRL–4985-9) which announced the receipt of a waiver request from the State of Maine, and solicited comments from the public. The notice also discussed the program elements of the State program, listed differences between the State program and the AHERA requirements, and provided EPA's preliminary response to the State on the differences identified.

No comments were received during the 60-day comment period. No request for a public hearing was received. Consequently, no hearing was held.

EPA is required to issue a notice in the Federal Register announcing its decision to grant or deny a request for waiver within 30 days after the close of the comment period. The comment period for this docket closed May 6, 1996. The 60–day review period may be extended if mutually agreed upon by EPA and the State.

The remainder of this document is divided into two units. The first unit discusses the Maine program and sets forth the reasons and rationale for EPA's decision on the State's waiver request. This unit is sub-divided into two sections. Section A discusses key elements of the State's program at the time the waiver request was submitted. Section B gives EPA's final approval of the waiver request based on the State's response. The second unit of this notice discusses statutory requirements of the Paperwork Reduction Act.

II. The Maine Program

A. Program Elements

Maine Revised Statutes 38 M.R.S.A. The Maine Department of Environmental Protection (MDEP) has the authority to regulate asbestos in schools and State buildings. The Maine Administrative Code, Title 16B, Chapter 12A and Appendix A are the State provisions for asbestos inspections and management in school and public and commercial buildings.

The MDEP conducts inspections to ensure compliance with the above laws and rules. MDEP reviews the management plans submitted for schools. The requirements of the Maine Program are the same or more stringent than the Federal AHERA requirements. The State requirements are more stringent in that the requirements apply to public and commercial buildings in addition to schools.

B. EPA's Decision on Maine's Request for Waiver

Based on a formal assurance to EPA from the lead Maine agency (MDEP) having the legal authority to carry out the requirements relating to the waiver request that Maine has incorporated into its asbestos inspection and management program, an asbestos accreditation program at least as stringent as the EPA MAP, Interim Final Rule is approved by this Notice.

Accordingly, EPA grants the State of Maine a waiver from the requirements of 40 CFR part 763, subpart E, effective November 7, 1996. Federal jurisdiction shall be in effect in the period between the date of publication of this document and that date. This will assure that the State has sufficient time to prepare to assume its new responsibilities. It will also assure the public that no gap in authority occurs, and gives the public sufficient notice of the transfer of duties from EPA to the State of Maine. This waiver is applicable to all schools covered by AHERA in the State. This waiver is subject to rescission under 40 CFR 763.98(j) based on periodic EPA oversight evaluation and conference with the State in accordance with 40 CFR 763.98(h) and 763.98(i).

III. Other Statutory Requirements

Paperwork Reduction Act

The reporting and recordkeeping provisions relating to State waivers from the requirements of the Asbestos-Containing Materials in Schools Rule (40 CFR part 763) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and have been assigned OMB control number 2070 0091.

List of Subjects in 40 CFR Part 763

Environmental protection, Administrative practice and procedure, Asbestos, Confidential business information, Hazardous substances, Imports, Intergovernmental relations, Labeling, Reporting and recordkeeping requirements, Schools.

Dated: September 23, 1996.

John P. DeVillars,

Regional Administrator, Region 1.

[FR Doc. 96–25798 Filed 10–07–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

46 CFR Part 506

[Docket No. 96–17]

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This final rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Debt Collection Improvement Act of 1996. The rule adjusts the amount of each statutory civil penalty subject to Federal Maritime Commission jurisdiction in accordance with the requirements of the Act.

EFFECTIVE DATE: November 7, 1996.

FOR FURTHER INFORMATION CONTACT: Vern W. Hill, Director, Bureau of Enforcement, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5783.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990 (''1990 Act''), Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (''Act''), Public Law 104–134, April 26, 1996, requires the inflation adjustment of Civil Monetary Penalties (''CMP'') to ensure that they continue to maintain their deterrent value. The Act requires that not later than 180 days after its enactment, October 23, 1996, and at least once every 4 years thereafter, the head of each agency shall, by regulation published in the Federal Register, adjust each CMP within its jurisdiction by the inflation adjustment described in the 1990 Act. The inflation adjustment under the Act is to be determined by increasing the maximum CMP by the cost-of-living adjustment, rounded off as set forth in section 5(a) of the 1990 Act. The cost-of-living adjustment is the percentage (if any) for each CMP by which the Consumer Price Index (''CPI'') [1] for the month of June of the calendar year preceding the adjustment, exceeds the CPI for the

[1] CPI is defined as the CPI for all urban consumers published annually by the Department of Labor.

month of June of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law. The first adjustment to a CMP may not exceed 10 percent of such penalty.

Any increased penalties shall apply only to violations which occur after the date on which the increase takes effect.

A typical example of an inflation adjustment of a CMP is as follows:

Section 13 of the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. 1712, imposes a maximum $25,000 penalty for a knowing and willful violation of the 1984 Act. The penalty was set in 1984. The CPI for June, 1984 was 310.7. The CPI for June, 1996 is 469.5. The inflation factor, therefore, is 469.5/310.7 or 1.51. The maximum penalty amount after increase and statutory rounding would be $40,000. (1.51×25,000) The new maximum penalty amount after applying the 10% limit on an initial increase is $27,500.

A similar calculation was done with respect to each CMP subject to the jurisdiction of the Federal Maritime Commission (''Commission''). In compliance with the Act, the Commission is hereby amending its regulations by creating a new part 506 in 46 CFR which will be entitled Civil Monetary Penalty Inflation Adjustment.

Notice and an opportunity for public comment are not necessary prior to issuance of this final rule because it implements a definitive statutory formula mandated by the Act.

The Commission certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions because it merely increases the maximum statutory civil monetary penalty by 10 percent for those entities that commit violations after the effective date of this rule. The Commission rarely has imposed the statutory maximum civil monetary penalty and, moreover, considers ability of a respondent to pay a civil monetary penalty in determining its amount. The size of a company necessarily enters into a determination of its ability to pay.

The rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended. Therefore, Office of Management and Budget review is not required.

List of Subjects in 46 CFR Part 506

Administrative practice and procedure, Penalties.

Part 506 of title 46 of the Code of Federal Regulations is added to read as follows:

PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Sec.

Authority: 28 U.S.C. 2461.

§ 506.1 Scope and purpose.

The purpose of this Part is to establish a mechanism for the regular adjustment for inflation of civil monetary penalties and to adjust such penalties in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 46 U.S.C. 2461, as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, April 26, 1996, in order to maintain the deterrent effect of civil monetary penalties and to promote compliance with the law.

§ 506.2 Definitions.

(a) *Commission* means the Federal Maritime Commission.

(b) *Civil Monetary Penalty* means any penalty, fine, or other sanction that:

(1)(i) Is for a specific monetary amount as provided by Federal law; or

(ii) Has a maximum amount provided by Federal law;

(2) Is assessed or enforced by the Commission pursuant to Federal law; and

(3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal Courts.

(c) *Consumer Price Index* means the Consumer Price Index for all urban consumers published by the Department of Labor.

§ 506.3 Civil Monetary Penalty Inflation Adjustment.

The Commission shall, not later than October 23, 1996, and at least once every 4 years thereafter—

(a) By regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Commission by the inflation adjustment described in § 506.4; and

(b) Publish each such regulation in the Federal Register.

§ 506.4 Cost of Living Adjustments of Civil Monetary Penalties.

(a) The inflation adjustment under § 506.3 shall be determined by increasing the maximum civil monetary penalty for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this subsection shall be rounded to the nearest:

(1) Multiple of $10 in the case of penalties less than or equal to $100;

(2) Multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) Multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) Multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) Multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) Multiple of $25,000 in the case of penalties greater than $200,000.

(b) For purposes of paragraph (a) of this section, the term ''cost-of-living adjustment'' means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

(c) *Limitation on initial adjustment.* The first adjustment of civil monetary penalty pursuant to § 506.3 may not exceed 10 percent of such penalty.

(d) *Inflation adjustment.* Maximum Civil Monetary Penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

United States Code Citation	Civil Monetary Penalty description	Maximum penalty amount as of 10/23/96	New adjusted maximum penalty amount
46 U.S.C. app. sec. 817d	Failure to establish financial responsibility for death or injury.	5,000 200	5,500 220
46 U.S.C. app. sec. 817e	Failure to establish financial responsibility for nonperformance of transportation.	5,000 200	5,500 220

United States Code Citation	Civil Monetary Penalty description	Maximum penalty amount as of 10/23/96	New adjusted maximum penalty amount
46 U.S.C. app. sec. 876	Failure to provide required reports, etc.—Merchant Marine Act of 1920.	5,000	5,500
46 U.S.C. app. sec. 876	Adverse shipping conditions/Merchant Marine Act of 1920.	1,000,000	1,100,000
46 U.S.C. app. sec. 876	Operating after tariff suspension/Merchant Marine Act of 1920.	50,000	55,000
46 U.S.C. app. sec. 1707a	Failure to pay ATFI Fee	5,000	5,500
46 U.S.C. app. sec. 1710a	Adverse impact on U.S. carriers by foreign shipping practices.	1,000,000	1,100,000
46 U.S.C. app. sec. 1712	Operating in foreign commerce after tariff suspension	50,000	55,000
46 U.S.C. app. sec. 1712	Knowing and willful violation/Shipping Act of 1984 or Commission regulation or order.	25,000	27,500
46 U.S.C. app. sec. 1712	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful.	5,000	5,500
46 U.S.C. app. sec. 1714	Failure to file anti-rebate certification/Shipping Act of 1984.	5,000	5,500
31 U.S.C. sec. 3802(a)(1)	Program Fraud Civil Remedies Act/giving false statement.	5,000	5,500
31 U.S.C. sec. 3802(a)(2)	Program Fraud Civil Remedies Act/giving false statement.	5,000	5,500

§ 506.5 Application of Increase to Violations.

Any increase in a civil monetary penalty under this part shall apply only to violations which occur after the date the increase takes effect.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–25561 Filed 10–7–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket Nos. 96–98 and 95–185; FCC 96–394]

Implementation of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule; sua sponte reconsideration.

SUMMARY: The Federal Communications Commission here reconsiders on its own motion two specific issues addressed in its *First Report and Order* implementing the Telecommunications Act of 1996. First, the Commission establishes a default proxy range for line ports, and clarifies that the default proxy for unbundled local switching applies to the traffic-sensitive components of the local switching element, including the switching matrix, the functionalities used to provide vertical features, and the trunk port. Second, the Commission clarifies that interexchange carriers or competitive access providers may not purchase access to an incumbent local exchange carrier's unbundled switch in order to provide interexchange traffic to customers for whom they do not provide local exchange service. The intended effect of this item is to provide an additional, interim proxy range for use by the states and to clarify one aspect of our rules governing the provision of unbundled network elements.

EFFECTIVE DATE: October 8, 1996.

FOR FURTHER INFORMATION CONTACT: Steve Weingarten, 202–418–1520 and Lisa Gelb, 202–418–1580.

SUPPLEMENTARY INFORMATION:

Adopted: September 27, 1996; Released: September 27, 1996.

I. Summary

1. In *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96–98, FCC 96–325 (released August 8, 1996), 61 FR 45476 (August 29, 1996) (*First Report and Order*), *petition for review pending sub nom., Iowa Utilities Board et al.* v. *FCC*, No. 96–3321 and consolidated cases (8th Cir. filed September 6, 1996), we adopted regulations implementing sections 251 and 252 of the Telecommunications Act of 1934, as amended by the Telecommunications Act of 1996, that require local exchange carriers (LECs) to open their networks to competition by providing interconnection, access to unbundled network elements, and retail services at wholesale rates. Pursuant to section 1.108 of the Commission's rules, 47 CFR § 1.108, we here reconsider on our own motion two specific issues addressed in the *First Report and Order*. We expect that parties may raise other issues in petitions for reconsideration. First, we establish a flat-rated default proxy range for the non-traffic sensitive costs of basic residential and business line ports associated with the unbundled local switching element. The default proxy range for local switching adopted in the *First Report and Order* will continue to apply to the traffic-sensitive components of the local switching element, including the switching matrix, the functionalities used to provide vertical features, and the trunk port. Second, we clarify that, because the *First Report and Order* concluded that the local switching element includes dedicated facilities, the requesting carrier is thereby effectively precluded from using unbundled switching to substitute for switched access services where the loop is used to provide both exchange access to the requesting carrier and local service by the incumbent LEC. Finally, we make a non-substantive rule change to correct a typographical error.

II. Unbundled Local Switching Default Proxy

2. *Background.* To implement the pricing standards for interconnection and unbundled elements of the 1996 Act, we concluded in the *First Report and Order* that state commissions, in arbitrations, should set interconnection and unbundled element rates pursuant to a forward-looking economic cost pricing methodology. Specifically, we concluded that the prices that new entrants pay for interconnection and unbundled elements should be based on the incumbent LEC's Total Element Long Run Incremental Cost (TELRIC),

including a reasonable profit, plus a reasonable share of forward-looking common costs. We concluded in the *First Report and Order* that ''a combination of a flat-rated charge for line ports, which are dedicated to a single new entrant, and either a flat-rate or per-minute usage charge for the switching matrix and for trunk ports, which constitute shared facilities, best reflects the way costs for unbundled local switching are incurred and is therefore reasonable.'' We remain convinced that the pricing methodology and rate structure established in the *First Report and Order* are correct and should be implemented by state commissions in arbitration proceedings.

3. For states that are unable to review or conduct an economic cost study consistent with the methodology we prescribed within the statutory time frame for arbitrating interconnection disputes, we established default proxy price ranges and ceilings that the states could apply, on an interim basis, to set prices for unbundled local switching and other unbundled elements in arbitrations. We did not establish separate default proxy price ranges or ceilings for the dedicated, non-traffic sensitive costs of line ports and the traffic-sensitive costs of the unbundled local switching element. Rather, we stated that states that do not establish the rate for the unbundled local switching element based on a forward-looking economic cost study in compliance with the rules adopted in the *First Report and Order* may, in the interim, set the rate so that the sum of the flat-rated charge for line ports and the product of the minutes of use per port and the usage-sensitive charges for the switching matrix and trunk ports, all divided by the projected minutes of use, does not exceed 0.4 cents ($0.004) per minute of use and is not lower than 0.2 cents ($0.002) per minute of use. We also observed that states that use our proxy and impose flat-rated charges for unbundled local switching should set rates so that the price falls within the range of 0.2 cents ($0.002) and 0.4 cents ($0.004) per minute of use if converted through the use of a geographically disaggregated average use factor.

4. *Discussion.* We now reconsider on our own motion a limited aspect of that decision and establish a default proxy range for basic residential and business line port costs of the local switching element. We see no reason at this time to revise the default proxy range for unbundled local switching that will apply to the traffic-sensitive components of the local switching element, including the switching matrix, the functionalities used to provide vertical features, and the trunk port. Moreover, we find no basis at this time for modifying the default proxy range for the termination of calls.

5. We relied on several studies in the record to support the default proxy range that we established for both the unbundled local switching element, pursuant to sections 251(c)(3) and 252(d)(1), and termination of calls, pursuant to sections 251(b)(5) and 252(d)(2). These data described a range for the ''additional costs'' of end office switching, from a low estimate of 0.18 cents ($0.0018) to a high of 1.5 cents ($0.015) per minute of use, with the forward-looking cost studies in the record ranging from 0.18 cents ($0.0018) to 0.35 cents ($0.0035) per minute of use. We determined that the studies in the record supported a default proxy range of 0.2 cents ($0.002) to 0.4 cents ($0.004) per minute of use. Based on further analysis of those studies, we conclude that the default proxy range of 0.2 cents ($0.002) to 0.4 cents ($0.004) per minute that we established using these data is a reasonable approximation of the cost of the usage-sensitive components of the unbundled local switching element, but that none of the cost estimates on which we relied to establish the default proxy range for usage-sensitive local switching included the costs of line ports. Accordingly, we now establish a default proxy ceiling for a charge to recover those costs.

6. The data support the default proxy we established for the termination portion of transport and termination, as defined in section 251(b)(5), because we found that the ''additional cost'' to the incumbent LEC of terminating a call that originates on another network includes only the usage-sensitive costs, including the switching matrix and the trunk ports, but not the non-traffic sensitive costs of local loops and line ports associated with the local loops. Such non-traffic-sensitive costs, by definition, do not vary in proportion to the number of calls terminating over the LEC's facilities and, thus, are not ''additional costs.'' Since all the studies we discussed in the Order included all the usage-based or ''additional costs,'' these studies fully support our conclusion that the default proxy for traffic termination, in the context of transport and termination, should be in the 0.2 cents ($0.002) to 0.4 cents ($0.004) per minute of use range. Accordingly, as stated, we find no basis at this time for modifying the default proxy range for the termination of calls. By contrast, the unbundled local switching element, as defined in section 251(c)(3), includes not just the usage-sensitive switching matrix and trunk port costs, but the non-traffic sensitive costs of the line ports as well. Thus, we now hold that the default proxy rate of 0.2 cents ($0.002) to 0.4 cents ($0.004) per minute of use should apply only to the traffic-sensitive components of the local switching element, including the switching matrix, the functionalities used to provide vertical features, and the trunk ports, but that line ports should be assessed a separate, flat-rated charge. We reject AT&T's arguments that we should not modify our existing rule. AT&T argues that it is not clear that the existing proxy range fails to include costs attributable to line ports and, even if it does fail to include such costs, LECs could recover their line port costs and the total would still be within the existing range. As previously stated, our conclusion is that the studies we relied upon in setting the existing range did not include a line port increment, and thus we believe that the local unbundled switching proxy must be modified.

7. We have reviewed several examples of rates set by state commissions that had available evidence from forward-looking cost studies. The Illinois Commission set rates of $1.62 and $1.10 per line per month for basic business and residential exchange line ports, respectively, after reviewing a forward-looking cost study submitted by Ameritech. The Florida Commission set interim line port rates of $2.00 for BellSouth. In a subsequent proceeding, the Florida Commission adopted a rate of $6.00 per line port for GTE, but the basis of that rate is not entirely clear. In that order, the Florida commission also set an interim rate of $7.00 per line port for United/Centel. The Florida commission in that proceeding required United/Centel to refile cost studies for all elements, and the basis for the $7.00 rate is even less clear than for GTE. The Connecticut Commission set an interim rate for Southern New England Telephone (''SNET'') of $1.90 per line per month, which it estimated was in excess of SNET's forward-looking economic cost. The Oregon Commission set a rate of $1.20 per line port.

8. Based on this record we adopt an interim default price range of $1.10 to $2.00 per line port per month for ports used in the delivery of basic residential and business exchange services. Our default price range is derived from existing state commission decisions based, at least in part, on forward-looking costs. With the exception of the Florida Commission's rates for GTE, state commissions with forward-looking cost data available have set line port rates that range from $1.10 for residential line ports in Illinois to $2.00

per line port in Florida for BellSouth. We also note that the range we adopt is consistent with the cost estimates derived by the Hatfield Model Version 2, Release 1 and the Cost Proxy Model. We thus set the proxy range between $1.10 and $2.00 per line port, consistent with these state commission decisions. We decline to rely on the Florida commission's decision regarding GTE. We note that that price is more than three times as large as any of the other rates set by state commissions with forward-looking cost studies available. In addition, the basis for that rate is not entirely clear. For example, it appears that the rate included marketing costs, some of which may be retail costs. The inclusion of retail costs would not be consistent with the pricing methodology we adopted in the *First Report and Order*. Under these circumstances, where we are establishing a pricing proxy that is intended for nationwide use by states that are unable to conduct an economic cost study within the time required for arbitrations, we conclude that we should not take this rate into account in setting the interim default proxy range for line ports.

9. We emphasize that we are adopting this proxy range for use only in the event a state commission is unable to set a price pursuant to the forward-looking methodology we outlined in the *First Report and Order* within the statutory arbitration period. States setting prices based on this proxy price range are required to replace those prices when they have approved an economic cost study complying with our rules or when the Commission adopts new proxies. Additionally, we find that states with existing rates for line ports that fall within our default price range need not readopt those rates pending the completion of a forward-looking cost study that complies with the methodology outlined in the *First Report and Order*.

III. Unbundled Local Switching Element

10. Several parties have raised a question as to whether interexchange carriers (IXCs) or competitive access providers (CAPs) may purchase access to an incumbent LEC's unbundled switch in order to originate or terminate interexchange traffic to customers for whom they do not provide local exchange service. Based on these inquiries, it appears that some parties believe that the *First Report and Order* could be interpreted to permit carriers to use unbundled switching elements, rather than standard access arrangements, to originate and terminate interexchange traffic to end users. Parties have noted that the *First Report and Order* does not specifically prohibit this, and that, if a carrier is entitled to purchase an unbundled switching element, the *First Report and Order* does not impose restrictions on the use of that element. In light of these inquiries, it appears that our resolution of this issue in the *First Report and Order* may not have been sufficiently explicit. *See, e.g.*, Letter from Todd F. Silbergeld, Director, Federal Regulatory, SBC Communications, Inc. to William F. Caton, Acting Secretary, FCC, September 19, 1996; Letter from Genevieve Morelli, Vice President & General Counsel, Competitive Telecommunications Association to William F. Caton, Acting Secretary, FCC, September 23, 1996; Letter from Mary L. Brown, Director-Corporate Rates and Federal Regulatory Analysis, MCI Telecommunications Corporation to William F. Caton, Acting Secretary, FCC, September 24, 1996; Letter from W. Scott Randolph, Director—Regulatory Affairs, GTE Service Corporation to William F. Caton, Acting Secretary, FCC, September 24, 1996. In this Order, we seek to remove any ambiguity that may exist with respect to this issue.

11. In section V.J.2. of the *First Report and Order*, we stated that ''when a requesting carrier purchases the unbundled local switching element, it obtains *all* switching features in a single element on a per-line basis.'' The unbundled switching element, as defined in the *First Report and Order*, includes the line card, which is often dedicated to a particular customer. Thus, a carrier that purchases the unbundled local switching element to serve an end user effectively obtains the exclusive right to provide all features, functions, and capabilities of the switch, including switching for exchange access and local exchange service, for that end user. A practical consequence of this determination is that the carrier that purchases the local switching element is likely to provide all available services requested by the customer served by that switching element, including switching for local exchange and exchange access. We further note that the pricing methodology set forth in the *First Report and Order* for the unbundled switching element included costs of components (*e.g.*, line ports) necessary to provide switching for both local exchange and exchange access services, and contemplated that the carrier purchasing the unbundled switch would provide switching for both local exchange and exchange access services. Although, as noted above, line port costs were not included in the switching proxy, we have concluded that such costs must be included in the price for the unbundled switching element.

12. Although we concluded in the *First Report and Order* that requesting telecommunications carriers are permitted under the 1996 Act to purchase unbundled elements for the purpose of providing exchange access, a carrier must, at least with respect to unbundled loops, provide to an end user all of the services that the end user requests. The *First Report and Order* concluded that carriers, ''as a practical matter, will have to provide whatever services are requested by the customers to whom those loops are dedicated.'' Similarly, the *First Report and Order* defined the local switching element in a manner that includes dedicated facilities, thereby effectively precluding the requesting carrier from using unbundled switching to substitute for switched access services where the loop is used to provide both exchange access to the requesting carrier and local exchange service by the incumbent LEC.

13. We thus make clear that, as a practical matter, a carrier that purchases an unbundled switching element will not be able to provide solely interexchange service or solely access service to an interexchange carrier. A requesting carrier that purchases an unbundled local switching element for an end user may not use that switching element to provide interexchange service to end users for whom that requesting carrier does not also provide local exchange service. Using unbundled switching elements in such a manner would be inconsistent with our statement in the *First Report and Order* that ''a competing provider orders the unbundled basic switching element *for a particular customer line* * * * .''

IV. Miscellaneous

14. We also modify Rule 51.707(b)(2) of our rules to correct a typographical error, by changing ''51.513(d)(3), (4), and (5)'' to ''51.513(c)(3), (4), and (5).''

V. Final Regulatory Flexibility Analysis

15. In the *First Report and Order* we conducted a Final Regulatory Flexibility Analysis, as required by Section 603 of the Regulatory Flexibility Act, as amended by the Contract With America Advancement Act of 1996, Public Law Number 104–121, 110 Stat. 847 (1996). The changes we adopt in this order do not affect our analysis of regulatory flexibility in the *First Report and Order*.

VI. Ordering Clauses

16. Accordingly, *It is ordered* that pursuant to authority contained in §§ 251 and 252 of the Communications Act of 1934, as amended, 47 U.S.C. 251, 252, and pursuant to § 1.108 of the Commission's rules, 47 CFR § 1.108, the Commission reconsiders its decision in the *First Report and Order* on its own motion to the extent specified herein.

17. *It is further ordered* that the policies and rules adopted here shall be effective October 8, 1996.

List of Subjects in 47 CFR Part 51

Communications, common carriers, Telephone.

Federal Communications Commission.

William F. Caton.

Acting Secretary.

Rule Changes

47 CFR, part 51, is amended as follows.

PART 51—INTERCONNECTION

1. The authority citation for part 51 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 218, 225–27, 251–54, 271, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 218, 225–27, 251–54, 271, unless otherwise noted.

2. Paragraph (c)(2) of Section 51.513 is revised to read as follows:

§ 51.513 Proxies for forward-looking economic cost.

* * * * *

(c) * * *

(2) *Local switching.*

(i) The blended proxy-based rate for the usage-sensitive component of the unbundled local switching element, including the switching matrix, the functionalities used to provide vertical features, and the trunk ports, shall be no greater than 0.4 cents ($0.004) per minute, and no less than 0.2 cents ($0.002) per minute, except that, where a state commission has, before August 8, 1996, established a rate less than or equal to 0.5 cents ($0.005) per minute, that rate may be retained pending completion of a forward-looking economic cost study. If a flat-rated charge is established for these components, it shall be converted to a per-minute rate by dividing the projected average minutes of use per flat-rated subelement, for purposes of assessing compliance with this proxy. A weighted average of such flat-rate or usage-sensitive charges shall be used in appropriate circumstances, such as when peak and off-peak charges are used.

(ii) The blended proxy-based rate for the line port component of the local switching element shall be no less than $1.10, and no more than $2.00, per line port per month for ports used in the delivery of basic residential and business exchange services.

* * * * *

3. Paragraph (b)(2) of Section 51.707 is revised to read as follows:

§ 51.707 Default proxies for incumbent LECs' transport and termination rates.

* * * * *

(b) * * *

(2) *Transport.* The incumbent LEC's rates for the transport of local telecommunications traffic, under this section, shall comply with the proxies described in Section 51.513(c)(3), (4), and (5) of this part that apply to the analogous unbundled network elements used in transporting a call to the end office that serves the called party.

[FR Doc. 96–25820 Filed 10–7–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 837 and 852

RIN 2900–AG67

VA Acquisition Regulation: Service Contracting

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document, with a nonsubstantive change, adopts as a final rule the provisions of a proposal to amend the Department of Veterans Affairs (VA) Acquisition Regulation pertaining to ''SERVICE CONTRACTING'' and ''SOLICITATION PROVISIONS AND CONTRACT CLAUSES.'' The regulation is amended to implement a class deviation from the Federal Acquisition Regulation by establishing a modified clause for indemnification and medical liability insurance requirements applicable to VA contracts. The use of this clause, instead of the Federal Acquisition Regulation clause, is intended to ensure that contractors providing nonpersonal health-care services to VA are able to comply with State statutes and avoid excessive costs.

EFFECTIVE DATE: October 8, 1996.

FOR FURTHER INFORMATION CONTACT: Wanza Lewis, Acquisition Policy Division (95A), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8820.

SUPPLEMENTARY INFORMATION: On October 22, 1993, we published in the Federal Register (58 FR 54548) a proposal to amend the Department of Veterans Affairs Acquisition Regulation to implement a class deviation from the Federal Acquisition Regulation Section 37.401 and clause at Section 52.237–7. Comments were solicited concerning the proposal for 60 days, ending December 20, 1993. We did not receive any comments. The information presented in the proposed rule document still provides a basis for this final rule. Therefore, based on the rationale set forth in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule without change, except for a nonsubstantive change which removes the designation of the material in Section 852.237–7 as a deviation.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This final rule would not cause a significant effect on any entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects

48 CFR Part 837

Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Approved: September 25, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR parts 837 and 852 are amended as set forth below:

PART 837—SERVICE CONTRACTING

1. The authority citation for part 837 is revised to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

2. Subpart 837.4, section 837.403 is added to read as follows:

Subpart 837.4—Nonpersonal Health-Care Services

837.403 Contract clause.

The contracting officer shall insert the clause at 852.237–7, Indemnification and Medical Liability Insurance, in lieu of FAR Clause 52.237–7, in solicitations

and contracts for nonpersonal health-care services. The contracting officer may include the clause in bilateral purchase orders for nonpersonal health-care services awarded under the procedures in FAR part 13 and (VAAR) 48 CFR part 813.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority citation for part 852 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

4. Section 852.237–7 is added to read as follows:

852.237–7 Indemnification and Medical Liability Insurance.

As prescribed in 837.403, insert the following clause:

Indemnification and Medical Liability Insurance (October 1996)

(a) It is expressly agreed and understood that this is a nonpersonal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor or its health-care providers are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided but retains no control over professional aspects of the services rendered, including by example, the Contractor's or its health-care providers' professional medical judgment, diagnosis, or specific medical treatments. The Contractor and its health-care providers shall be liable for their liability-producing acts or omissions. The Contractor shall maintain or require all health-care providers performing under this contract to maintain, during the term of this contract, professional liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: [Contracting Officer insert the dollar value(s) of standard coverage(s) prevailing within the local community as to the specific medical specialty, or specialties, concerned, or such higher amount as the Contracting Officer deems necessary to protect the Government's interests]. However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract shall be fulfilled by incorporating the provisions of the applicable State law.

(b) An apparently successful offeror, upon request of the Contracting Officer, shall, prior to contract award, furnish evidence of the insurability of the offeror and/or of all health-care providers who will perform under this contract. The submission shall provide evidence of insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

(c) The Contractor shall, prior to commencement of services under the contract, provide to the Contracting Officer Certificates of Insurance or insurance policies evidencing the required insurance coverage and an endorsement stating that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. Certificates or policies shall be provided for the Contractor and/or each health-care provider who will perform under this contract.

(d) The Contractor shall notify the Contracting Officer if it, or any of the health-care providers performing under this contract, change insurance providers during the performance period of this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and endorsements. These requirements may be met either under the new policy, or a combination of old and new policies, if applicable.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for health-care services under this contract. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraph (a) of this clause.

(End of Clause)

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BILLING CODE 8320–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1011, 1104, 1111, 1112, 1113, 1114, 1115 and 1121

[STB Ex Parte No. 527]

Expedited Procedures For Processing Rail Rate Reasonableness, Exemption And Revocation Proceedings

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rules.

SUMMARY: Under new 49 U.S.C. 10704(d), enacted as part of section 102(a) of the ICC Termination Act of 1995 (ICCTA), the Surface Transportation Board (Board) is required to establish procedures to expedite the handling of challenges to the reasonableness of railroad rates and of railroad exemption and revocation proceedings. This publication contains our final rules.

EFFECTIVE DATE: November 7, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. Stilling, (202) 927–7312. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The Board's decision discussing the final rules is available to all persons for a charge by calling DC NEWS & DATA INC. at (202) 289–4357. A notice of proposed rulemaking was published in the Federal Register on July 26, 1996 at 61 FR 39110. The Board certifies that the rules will not have a significant economic effect on a substantial number of small entities. They should result in easier and quicker discovery and record-building.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Parts 1104, 1112, 1113, 1114, and 1115

Administrative practice and procedure.

49 CFR Part 1111

Administrative practice and procedure, Investigations.

49 CFR Part 1121

Administrative practice and procedure, Rail exemption procedures, Railroads.

Decided: September 27, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1011, 1104, 1111, 1112, 1113, 1114, 1115 and 1121 of the Code of Federal Regulations are amended as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for part 1011 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 701, 721, 13702.

§ 1011.7 [Amended]

2. Section 1011.7 is amended as follows:

a. In paragraph (b)(1), remove the words ''The Chairman of the Commission'' and add in their place the words ''The Commission (Board)''.

b. Paragraph (b)(2) is removed and reserved.

PART 1104—FILING WITH THE BOARD-COPIES-VERIFICATIONS-SERVICE-PLEADINGS, GENERALLY

3. The authority citation for part 1104 is revised to read as follows:

4. The heading of part 1104 is revised as set forth above.

Authority: 5 U.S.C. 559; 21 U.S.C. 853a; 49 U.S.C. 721.

5. Part 1104 is amended as follows:

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1104.3(a), 1104.3(b), 1104.4(b), 1104.5(b), 1104.6, 1104.7(b), 1104.8, 1104.10(a), 1104.10(b), 1104.12(a), 1104.12(b), 1104.13(a) and 1104.14(b).

b. Remove the word ''Commission's'' and add the word ''Board's'' in the following sections: §§ 1104.3(b), 1104.6 and 1104.11.

c. Remove the words ''Interstate Commerce Commission'' and add the words ''Surface Transportation Board'' in § 1104.1(a).

6. Section 1104.1 is amended by adding new paragraph (d) to read as follows:

§ 1104.1 Address and identification.

* * * * *

(d) All multi-volume pleadings must be sequentially numbered on the cover of each volume to indicate the volume number of the pleading and the total number of volumes filed (e.g., the first volume in a 4-volume set should be labeled ''volume 1 of 4,'' the second volume ''volume 2 of 4'' and so forth).

§ 1104.3 [Amended]

7. Section 1104.3 is amended by adding the following sentence to the end of paragraph (a) to read as follows:

§ 1104.3 Copies.

(a) * * * In addition to the paper copies required to be filed with the Board, 3 copies of:

(1) Textual submissions of 20 or more pages; and

(2) All electronic spreadsheets should be submitted on 3.5 inch, IBM compatible formatted diskettes or QIC–80 tapes. Textual materials must be in WordPerfect 5.1 format, and electronic spreadsheets must be in LOTUS 1–2–3 release 5 or earlier format. One copy of each such computer diskette or tape submitted to the Board must also be served on each party in accordance with § 1104.12 of this part.

8. In § 1104.15, paragraph (a) is revised to read as follows:

§ 1104.15 Certification of eligibility for Federal benefits under 21 U.S.C. 853a.

(a) An individual who is applying in his or her name for a certificate, license or permit to operate as a rail carrier must complete the certification set forth in paragraph (b) of this section. This certification is required if the transferee in a finance proceeding under 49 U.S.C. 11323 and 11324 is an individual. The certification also is required if an individual applies for authorization to acquire, to construct, to extend, or to operate a rail line.

* * * * *

9. Part 1111 is revised to read as follows:

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

Sec.

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

§ 1111.1 Content of formal complaints; joinder.

(a) *General.* A formal complaint must contain the correct, unabbreviated names and addresses of each complainant and defendant. It should set forth briefly and in plain language the facts upon which it is based. It should include specific reference to pertinent statutory provisions and Board regulations, and should advise the Board and the defendant fully in what respects these provisions or regulations have been violated. The complaint should contain a detailed statement of the relief requested. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed at the hearing. In a complaint challenging the reasonableness of a rail rate, the complainant should indicate whether, in their view, the reasonableness of the rate should be examined using constrained market pricing or simplified standards to be adopted pursuant to 49 U.S.C. 10701(d)(3). The complainant should specify the basis for this assertion.

(b) *Multiple causes of action.* Two or more grounds of complaint concerning the same principle, subject, or statement of facts may be included in one complaint, but should be stated and numbered separately.

(c) *Joinder.* Two or more complainants may join in one complaint against one or more defendants if their respective causes of action concern substantially the same alleged violations and like facts.

§ 1111.2 Amended and supplemental complaints.

An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants. The time limits for responding to an amended or supplemental complaint are computed pursuant to §§ 1111.4 and 1111.5 of this part, as if the amended or supplemental complaint was an original complaint.

§ 1111.3 Service.

A complainant is responsible for serving formal complaints, amended or supplemental complaints, and cross complaints on the defendant(s). Service shall be made by sending a copy of such complaint to the chief legal officer of each defendant by either confirmed facsimile and first-class mail or express overnight courier. The cover page of each such facsimile and the front of each such first-class mail or overnight express courier envelope shall include the following legend: ''Service of STB Complaint''. Service of the complaint shall be deemed completed on the date on which the complaint is served by confirmed facsimile or, if service is made by express overnight courier, on the date such complaint is actually received by the defendant. When the complaint involves more than one defendant, service of the complaint shall be deemed completed on the date on which all defendants have been served. Ten copies of the complaint should be filed with the Board together with an acknowledgment of service by the persons served or proof of service in the form of a statement of the date and manner of service, of the names of the persons served, and of the addresses to which the papers were mailed or at which they were delivered, certified by the person who made service. If complainant cannot serve the complaint, an original of each complaint accompanied by a sufficient number of copies to enable the Board to serve one upon each defendant and to retain 10 copies in addition to the original should be filed with the Board.

§ 1111.4 Answers and cross complaints.

(a) *Generally*. An answer shall be filed within the time provided in paragraph (b) of this section. An answer should be responsive to the complaint and should fully advise the Board and the parties of the nature of the defense. In answering a complaint challenging the reasonableness of a rail rate, the defendant should indicate whether it will contend that the Board is deprived of jurisdiction to hear the complaint because the revenue-variable cost percentage generated by the traffic is less than 180 percent, or the traffic is subject to effective product or geographic competition.

(b) *Time for filing; copies; service*. An answer must be filed within 20 days after the service of the complaint or within such additional time as the Board may provide. The original and 10 copies of an answer must be filed with the Board. The defendant must serve copies of the answer upon the complainant and any other defendants.

(c) *Cross complaints*. A cross complaint alleging violations by other parties to the proceeding or seeking relief against them may be filed with the answer. An answer to a cross complaint shall be filed within 20 days after the service date of the cross complaint. The party shall serve copies of an answer to a cross complaint upon the other parties.

(d) *Failure to answer complaint*. Averments in a complaint are admitted when not denied in an answer to the complaint.

§ 1111.5 Motions to dismiss or to make more definite.

An answer to a complaint or cross complaint may be accompanied by a motion to dismiss the complaint or cross complaint or a motion to make the complaint or cross complaint more definite. A motion to dismiss can be filed at anytime during a proceeding. A complainant or cross complainant may, within 10 days after an answer is filed, file a motion to make the answer more definite. Any motion to make more definite must specify the defects in the particular pleading and must describe fully the additional information or details thought to be necessary.

§ 1111.6 Satisfaction of complaint.

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the complainant must be filed (original only need be filed), setting forth when and how the complaint has been satisfied. This action should be taken as expeditiously as possible.

§ 1111.7 Investigations on the Board's own motion.

(a) *Service of decision*. A decision instituting an investigation on the Board's own motion will be served by the Board upon respondents.

(b) *Default*. If within the time period stated in the decision instituting an investigation, a respondent fails to comply with any requirement specified in the decision, the respondent will be deemed in default and to have waived any further proceedings, and the investigation may be decided forthwith.

§ 1111.8 Procedural schedule in stand-alone cost cases.

Absent a specific order by the Board, the following general procedural schedule will apply in stand-alone cost cases:

Day 0—Complaint filed, discovery period begins.
Day 7—Conference of the parties convened pursuant or before to section 1111.9(b).
Day 20—Defendant's answer to complaint due.
Day 75—Discovery completed.
Day 120—Complainant files opening evidence on absence of intermodal and intramodal competition, variable cost, and stand-alone cost issues. Defendant files opening evidence on existence of product and geographic competition, and revenue-variable cost percentage generated by complainant's traffic.
Day 180—Complaint and defendant file reply evidence to opponent's opening evidence.
Day 210—Complaint and defendant file rebuttal evidence to opponent's reply evidence.

§ 1111.9 Meeting to discuss procedural matters.

(a) *Generally*. In all complaint proceedings, other than those challenging the reasonableness of a rail rate based on stand-alone cost, the parties shall meet, or discuss by telephone, discovery and procedural matters within 7 days after an answer to a complaint is filed. Within 14 days after an answer to a complaint is filed, the parties, either jointly or separately, shall file a report with the Board setting forth a proposed procedural schedule to govern future activities and deadlines in the case.

(b) *Stand-alone cost complaints*. In complaints challenging the reasonableness of a rail rate based on stand-alone cost, the parties shall meet, or discuss by telephone, discovery and procedural matters within 7 days after a complaint is filed. The parties should inform the Board as soon as possible thereafter whether there are unresolved disputes that require Board intervention and, if so, the nature of such disputes.

PART 1112—MODIFIED PROCEDURES

10. The authority citation for part 1112 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 701.

11. Part 1112 is amended as follows:

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1112.1, 1112.4(a) introductory text and 1112.7 section heading and text.

b. Remove the word ''Commission's'' and add the word ''Board's'' in § 1112.1

§ 1112.4 [Amended]

c. Section 1112.4 is amended by removing paragraph (c).

d. Section 1112.10 is revised to read as follows:

§ 1112.10 Requests for oral hearings and cross examination.

(a) *Requests*. Requests for oral hearings in matters originally assigned for handling under modified procedure must include the reasons why the matter cannot be properly resolved under modified procedure. Requests for cross examination of witnesses must include the name of the witness and the subject matter of the desired cross examination.

(b) *Disposition*. Unless material facts are in dispute, oral hearings will not be held. If held, oral hearings will normally be confined to material issues upon which the parties disagree. The decision setting a matter for oral hearing will define the scope of the hearing.

PART 1113—ORAL HEARINGS

12. The authority citation for part 1113 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

13. Part 1113 is amended as follows:

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1113.1(a), 1113.2(a), 1113.2(b)(1), 1113.2(d), 1113.4(a) introductory text, 1113.4(b), 1113.5, 1113.6(b), 1113.7(e), 1113.8, 1113.10, section heading and text, 1113.12(a), 1113.12(b), 1113.13, 1113.16, 1113.17 (b) and (c) and 1113.18(c).

§ 1113.1 [Amended]

b. In § 1113.1, paragraph (c)(3) is removed.

§ 1113.3 [Amended]

c. In § 1113.3, paragraph (b)(2), add a period after the word ''complaint'' and remove the remainder of the paragraph.

§ 1113.11 [Amended]

d. In § 1113.11, first sentence, remove the words ''and in evidence'' and add the words ''in evidence and''.

§ 1113.31 [Removed]

e. Section 1113.31 is removed.

PART 1114—EVIDENCE; DISCOVERY

14. The authority citation for part 1114 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

15. Subpart A is amended as follows:

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1114.1, 1114.4, 1114.5 section heading and text and 1114.6.

b. Remove the word ''Commission's'' and add the word ''Board's'' in § 1114.4 section heading.

§ 1114.7 [Amended]

c. Section 1114.7 is amended by removing the words ''(a) Generally.'' from paragraph (a) and removing paragraph (b).

16. Subpart B is amended as follows:

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1114.21(c)(3), 1114.21(c)(9) and the concluding text, of paragraph (c) 1114.21(d), 1114.21(e) introductory text, 1114.23(b), 1114.23(c), 1114.23(d)(1), 1114.23(d)(2), 1114.24(b)(2), 1114.24(b)(3) introductory text, 1114.24(d), 1114.24(h), 1114.26(a), 1114.27(b), 1114.31(a), 1114.31(b)(1), 1114.31(b)(2), 1114.31(c) and 1114.31(d).

b. Remove the word ''Commission's'' and add the word ''Board's'' in § 1114.31(b)(1).

§ 1114.21 [Amended]

c. In § 1114.21, paragraph (a)(1), remove the words ''(except the review boards)''.

§ 1114.26 [Amended]

d. In § 1114.26, paragraph (a), remove the second sentence.

§ 1114.26 [Amended]

e. In § 1114.26, paragraph (c), remove the words ''In those proceedings not requiring a petition for interrogatories, and unless under special circumstances and for good cause,'' and capitalize the word ''no''.

§ 1114.27 [Amended]

f. In § 1114.27, paragraph (a), remove the third and last sentences.

§ 1114.27 [Amended]

g. In § 1114.27, paragraph (c), remove the words ''In those proceedings not requiring a petition for requests for admission, and unless under special circumstances and for good cause shown,'' and capitalize the word ''no''.

§ 1114.31 [Amended]

h. In § 1114.31, paragraph (b)(1) remove the words ''49 U.S.C. 10321(c)(3) and (d)(4)'' and add in their place the words ''49 U.S.C. 721(c) and (d)''.

17. The additions and revisions to subpart B are as follows:

a. Section 1114.21 is amended by revising paragraph (b) and adding a new paragraph (f) to read as follows:

§ 1114.21 Applicability; general provisions.

* * * * *

(b) *How discovery is obtained.* All discovery procedures may be used by parties without filing a petition and obtaining prior Board approval.

* * * * *

(f) *Service of discovery materials.* Unless otherwise ordered by the Board, depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto, shall be served on other counsel and parties, but shall not be filed with the Board. Any such materials, or portions thereof, should be appended to the appropriate pleading when used to support or to reply to a motion, or when used as an evidentiary submission.

b. Section 1114.22 is revised to read as follows:

§ 1114.22 Deposition.

(a) *Purpose.* The testimony of any person, including a party, may be taken by deposition upon oral examination.

(b) *Request.* A party requesting to take a deposition and perpetuate testimony:

(1) Should notify all parties to the proceeding and the person sought to be deposed; and

(2) Should set forth the name and address of the witness, the place where, the time when, the name and office of the officer before whom, and the cause or reason why such deposition will be taken.

c. Section 1114.30 is revised to read as follows:

§ 1114.30 Production of documents and records and entry upon land for inspection and other purposes.

(a) *Scope.* Any party may serve on any other party a request:

(1) To produce and permit the party making the request to inspect any designated documents (including writings, drawings, graphs, charts, photographs, phonograph records, tapes, and other data compilations from which information can be obtained, translated, if necessary, with or without the use of detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which are in the possession, custody, or control of the party upon whom the request is served, but if the writings or data compilations include privileged or proprietary information or information the disclosure of which is proscribed by the Act, such writings or data compilations need not be produced under this rule but may be provided pursuant to § 1114.26(b) of this part; or

(2) To permit, subject to appropriate liability releases and safety and operating considerations, entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspecting and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon.

(b) *Procedure.* Any request filed pursuant to this rule should set forth the items to be inspected either by individual item or by category and describe each item and category with reasonable particularity. The request should specify a reasonable time, place, and manner of making the inspection and performing the related acts.

d. Section 1114.31 is amended by adding a new paragraph (b)(2)(iv) and adding a sentence to the end of paragraph (d) to read as follows:

§ 1114.31 Failure to respond to discovery.

* * * * *

(b) * * *

(2) * * *

(iv) In lieu of any of the foregoing orders, or in addition thereto, the Board shall require the party failing to obey the order or the attorney advising that party, or both, to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the Board finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

* * * * *

(d) * * * In lieu of any such order or in addition thereto, the Board shall require the party failing to act or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the Board finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

* * * * *

PART 1115—APPELLATE PROCEDURES

18. The authority citation for part 1115 is revised to read as follows:

Authority: 5 U.S.C. 559, 49 U.S.C. 721.

19. Part 1115 is amended as follows:

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1115.1(b), 1115.1(c), 1115.2(b)(2), 1115.2(g), 1115.5(a), 1115.5(b), 1115.6, 1115.7 and 1115.8.

b. In § 1115.1, paragraph (c), remove the words ''Chairman of the Commission.'' at the end of the first sentence and add in their place the words ''entire Board.''.

c. In § 1115.7, remove the words ''Interstate Commerce Commission'' and add in their place the words ''Surface Transportation Board''.

20. The additions and revisions to part 1115 are as follows:

a. Section 1115.1, paragraph (a) is revised to read as follows:

§ 1115.1 Scope of rule.

(a) These appellate procedures apply in cases where a hearing is required by law or Board action. They do not apply to informal matters such as car service, temporary authority, suspension, special permission actions, or to other matters of an interlocutory nature. Abandonments and discontinuance proceedings instituted under 49 U.S.C. 10903 are governed by separate appellate procedures exclusive to those proceedings. (See 49 CFR part 1152)

* * * * *

b. In § 1115.2, introductory text, remove the words ''or joint board'' and revise paragraph (e) to read as follows:

§ 1115.2 Initial decisions.

* * * * *

(e) Appeals must be filed within 20 days after the service date of the decision or within any further period (not to exceed 20 days the Board may authorize. Replies must be filed within 20 days of the date the appeal is filed.

* * * * *

c. Section 1115.3 is revised to read as follows:

§ 1115.3 Board actions other than initial decisions.

(a) A discretionary appeal of an entire Board action is permitted.

(b) The petition will be granted only upon a showing of one or more of the following points:

(1) The prior action will be affected materially because of new evidence or changed circumstances.

(2) The prior action involves material error.

(c) The petition must state in detail the nature of and reasons for the relief requested. When, in a petition filed under this section, a party seeks an opportunity to introduce evidence, the evidence must be stated briefly and must not appear to be cumulative, and an explanation must be given why it was not previously adduced.

(d) The petition and any reply must not exceed 20 pages in length. A separate preface and summary of argument, not exceeding 3 pages, may accompany petitions and replies and must accompany those that exceed 10 pages in length.

(e) Petitions must be filed within 20 days after the service of the action or within any further period (not to exceed 20 days) as the Board may authorize.

(f) The filing of a petition will not automatically stay the effect of a prior action, but the Board may stay the effect of the action on its own motion or on petition. A petition to stay may be filed in advance of the petition for reconsideration and shall be filed within 10 days of service of the action. No reply need be filed. However, if a party elects to file a reply, it must reach the Board no later than 16 days after service of the action. In all proceedings, the action, if not stayed, will become effective 30 days after it is served, unless the Board provides for the action to become effective at a different date. On the day the action is served parties may initiate judicial review.

d. Section 1115.4 is revised to read as follows:

§ 1115.4 Petitions to reopen administratively final actions.

A person at any time may file a petition to reopen any administratively final action of the Board pursuant to the requirements of § 1115.3 (c) and (d) of this part. A petition to reopen must state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances and must include a request that the Board make such a determination.

e. A new § 1115.9 is added to read as follows:

§ 1115.9 Interlocutory Appeals.

(a) Rulings of Board employees, including administrative law judges, may be appealed prior to service of the initial decision only if:

(1) The ruling denies or terminates any person's participation;

(2) The ruling grants a request for the inspection of documents not ordinarily available for public inspection;

(3) The ruling overrules an objection based on privilege, the result of which ruling is to require the presentation of testimony or documents; or

(4) The ruling may result in substantial irreparable harm, substantial detriment to the public interest, or undue prejudice to a party.

(b) Any interlocutory appeal of a ruling shall be filed with the Board within three (3) business days of the ruling. Replies to any interlocutory appeal shall be filed with the Board within three (3) business days after the filing of any such appeal.

21. Part 1121 is revised to read as follows:

PART 1121—RAIL EXEMPTION PROCEDURES

Sec.

Authority: 5 U.S.C. 553; 49 U.S.C. 10502 and 10704.

§ 1121.1 Scope.

These procedures generally govern petitions filed under 49 U.S.C. 10502 to exempt a transaction or service from 49 U.S.C. subtitle IV, or any provision of 49 U.S.C. subtitle IV, or to revoke an exemption previously granted. These procedures also apply to notices of exemption.

§ 1121.2 Discovery.

Discovery shall follow the procedures set forth at 49 CFR part 1114, subpart B. Discovery may begin upon the filing of the petition for exemption or petition for revocation of an exemption. In petitions to revoke an exemption, a party must indicate in the petition whether it is seeking discovery. If it is, the party must file its discovery requests at the same time it files its petition to revoke. Discovery shall be completed 30 days after the petition to revoke is filed. The party seeking discovery may supplement its petition to revoke 45 days after the petition is filed. Replies to the supplemental petition are due 15 days after the supplemental petition is filed.

§ 1121.3 Content.

(a) A party filing a petition for exemption shall provide its case-in-chief, along with its supporting evidence, workpapers, and related documents at the time it files its petition.

(b) A petition must comply with environmental or historic reporting and notice requirements of 49 CFR part 1105, if applicable.

(c) A party seeking revocation of an exemption or a notice of exemption shall provide all of its supporting information at the time it files its petition. Information later obtained through discovery can be submitted in a supplemental petition pursuant to 49 CFR 1121.2.

§ 1121.4 Procedures.

(a) Exemption proceedings are informal, and public comments are generally not sought during consideration of exemption petition proposals, except as provided in § 1121.4(c). However, the Board may consider during its deliberation any public comments filed in response to a petition for exemption.

(b) If the Board determines that the criteria in 49 U.S.C. 10502 are met for the proposed exemption, it will issue the exemption and publish a notice of exemption in the Federal Register.

(c) If the impact of the proposed exemption cannot be ascertained from the information contained in the petition or accompanying submissions, or significant adverse impacts might occur if the proposed exemption were granted, or a class exemption is sought, the Board will:

(1) Direct that additional information be filed; or

(2) Publish a notice in the Federal Register requesting public comments.

(d) Exemption petitions containing proposals that are directly related to and concurrently filed with a primary application will be considered along with that primary application.

(e) Unless otherwise specified in the decision, an exemption generally will be effective 30 days from the service date of the decision granting the exemption. Unless otherwise provided in the decision, petitions to stay must be filed within 10 days of the service date, and petitions to reopen under 49 CFR part 1115 or 49 CFR 1152.25(e) must be filed within 20 days of the service date.

(f) Petitions to revoke an exemption or the notice of exemption may be filed at any time. The person seeking revocation has the burden of showing that the revocation criteria of 49 U.S.C. 10502(d) have been met.

(g) In abandonment exemptions, petitions to revoke in part to impose public use conditions under 49 CFR 1152.28, or to invoke the Trails Act, 16 U.S.C. 1247(d), may be filed at any time prior to the consummation of the abandonment, except that public use conditions may not prohibit disposal of the properties for any more than the statutory limit of 180 days after the effective date of the decision granting the exemption.

[FR Doc. 96–25515 Filed 10–7–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 960807218–6244–02; I.D. 100296E]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has projected that the annual commercial quota for red snapper will be reached on October 6, 1996. This closure is necessary to protect the red snapper resource.

EFFECTIVE DATE: Closure is effective 12:01 a.m., local time, October 7, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson Fishery Conservation and Management Act. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 1996.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Based on current statistics, NMFS has projected that the commercial quota of 4.65 million lb (2.11 million kg) for red snapper will be reached on October 6, 1996. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper is closed effective 12:01 a.m., local time, October 7, 1996, through December 31, 1996, the end of the fishing year. The operator of a vessel with a valid reef fish permit having red snapper on board must land and sell such red snapper prior to 12:01 a.m., local time, October 7, 1996.

During the closure, the bag limit applies to all harvest of red snapper from the EEZ in the Gulf of Mexico. The daily bag limit for red snapper is five per person. From 12:01 a.m., local time, October 7, 1996, through December 31, 1996, the sale or purchase of red snapper taken from the EEZ is prohibited. This prohibition does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 7, 1996, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 2, 1996.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–25789 Filed 10–3–96; 4:20 pm]

BILLING CODE 3510–22–F

50 CFR Part 648

[Docket No. 951116270–5308–02; I.D. 100196A]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New Jersey

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest.

SUMMARY: NMFS issues this notification announcing that the summer flounder commercial quota available to the State of New Jersey has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New Jersey for the remainder of calendar year 1996, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the State of New Jersey that the quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in that state.

EFFECTIVE DATE: October 3, 1996 through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, Fishery Policy Analyst, 508–281–9221.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100. Amendment 7 to the FMP (November 24, 1995, 60 FR 57955) revised the fishing mortality rate reduction schedule for summer flounder, and the revised schedule was the basis for establishing the 1996 quota. The total commercial quota for summer flounder for the 1996 calendar year was adopted to ensure achievement of the appropriate fishing mortality rate of 0.41 for 1996, and is set equal to 11,111,298 lb (5,040,000 kg) (January 4, 1996, 61 FR 291). The percent allocated to vessels landing summer flounder in New Jersey is 16.724 percent or 1,858,363 lb (842,939 kg).

Section 648.101(b) requires the Regional Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state commercial quota is harvested. The Regional Administrator is further required to publish a notification in the Federal Register advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. Because the available information indicates that New Jersey has attained its quota for 1996, the Regional Administrator has determined, based on dealer reports and other available information, that the State's commercial quota has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours October 3, 1996 further landings of summer flounder in New Jersey by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1996 calendar year, unless additional quota becomes available through a transfer and is announced in the Federal Register. Federally permitted dealers are also advised that they may not purchase summer flounder from Federally permitted vessels that land in New Jersey for the remainder of the calendar year, or until additional quota becomes available, effective on October 3, 1996.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 3, 1996.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–25792 Filed 10–3–96; 4:20 pm]

BILLING CODE 3510–22–F

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50 CFR Part 679

[Docket No. 960129018–6018–01; I.D. 093096B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 620 of the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of pollock in that area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), October 5, 1996, until 2400 hrs, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20 (c)(3)(ii), the annual TAC for pollock in area 620 of the Central Regulatory Area of the Gulf of Alaska was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4304, February 5, 1996) as 12,840 metric tons (mt). The directed fishery for pollock in statistical area 620 of the Central Regulatory Area of the Gulf of Alaska was closed to directed fishing under § 679.20 (d)(1)(iii) in order to reserve amounts anticipated to be needed for incidental catch in other fisheries (61 FR 50256, September 30, 1996). NMFS has determined that as of September 21, 1996, 1,993 mt remain in the directed fishing allowance.

The Director, Alaska Region, NMFS, has determined that the 1996 directed fishing allowance of pollock in Statistical Area 620 of the Central Regulatory Area of the Gulf Alaska has not been reached. Therefore, NMFS is terminating the previous closure and is opening directed fishing for pollock in Statistical Area 620 of the Central Regulatory Area of the Gulf of Alaska.

All other closures remain in full force and effect.

Classification

This action is taken under § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 3, 1996.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–25788 Filed 10–3–96; 4:20 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 196
Tuesday, October 8, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 407

RIN 0563–AB06

Group Risk Plan of Insurance

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to add regulations to provide for the operation of an alternative risk management tool to be known as the Group Risk Plan of Insurance (GRP). This plan will insure against the widespread loss of production of certain crops in a county. It is intended primarily for use by those producers whose yields tend to follow the county average yield. GRP pays only when the average yield of the entire county drops below the expected county yield for the insured crop as set by the FCIC. Payment is based on the percentage of decline in a county or area wide yield below the insured's trigger yield. The insured need not have a loss to collect an indemnity. Alternately, the insured may have a loss and not collect an indemnity.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business November 22, 1996, and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through December 6, 1996.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Mo 64131. Written comments will be available for public inspection and copying in room 0324, South Building, USDA, 14th and Independence Avenue, S.W., Washington D.C., 8:15 am to 4:45 pm, EST, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: William Klein, Program Analyst, Research and Development Division, Product Development Branch, FCIC, at the Kansas City, MO address listed above. Telephone (816) 926–7730. For a copy of the Cost-Benefit Analysis to the GRP, contact David Winningham, Advisory and Corporate Operations Staff, Regulatory Review Group, Farm Service Agency, P.O. Box 2415, AG Box 0570, United States Department of Agriculture, Washington, D.C. 20250, telephone (202) 720–5457.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB). The sunset review date established for these regulations is January 1, 2001.

Cost Benefit Analysis

A Cost Benefit Analysis has been completed and is available to interested persons at the address listed above. In summary, the analysis finds that the expected benefits associated with this proposed regulation outweigh the costs. Producers have a risk management program available in GRP, which offers lower deductibles and in many cases, requires lower premiums. GRP provides benefits to the Government, taxpayers, and producers because it costs less to administer. Program costs are dependent on the total premium (premium per acre multiplied by the number of acres), and the premium per acre for GRP is lower than it is for APH–MPCI. In addition, under the GRP plan expense reimbursement to private companies is lower than under APH–MPCI because GRP does not require individual yield histories or individual loss adjustments. For the 1997 crop year the expense reimbursement is 27 percent of the total premium for GRP and 29 percent for APH–MPCI.

These regulations eliminate preliminary payments, a feature of the pilot program, which will further reduce FCIC's administrative costs and the additional costs incurred when NASS is required to provide early yield estimates. GRP Basic and Crop Provisions do not contain APH, prevented planting, or loss adjustment requirements. A loss situation is triggered only when the NASS county yield for the crop year is less than the expected county average yield, regardless of whether or not the individual producer experiences a loss of production. Because adverse selection and moral hazard are not significant problems with GRP, FCIC losses will likely be minimal over the long run.

Paperwork Reduction Act of 1995

A Paperwork Reduction Package has been prepared to add the GRP Provisions to the Catastrophic Risk Plan (CAT) and Related Requirements. The CAT regulations were previously approved by OMB pursuant to the predecessor of the Paperwork Reduction Act of 1995 (44 U.S.C., chapter 35) under OMB control number 0563–0003 through September 30, 1998.

The information to be collected includes: a crop insurance acreage report, an insurance application and continuous contract. Information collected from the acreage report and application is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of GRP crops that are eligible for Federal crop insurance.

The information requested is necessary for the insurance company and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. For this rule, the reporting burden for collection of information is estimated to average 16.9 minutes per response for each of the 2.0 responses from approximately 15,637 respondents. The total annual burden on the public for this information collection is 25,760 hours.

The comment period for information collections under the Paperwork Reduction Act of 1995 continues on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c)

ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Bonnie Hart, USDA, FSA, Advisory and Corporate Operations Staff, Regulatory Review Group, P.O. Box 2415, Ag Box 0572, Washington, D.C. 20013–2415, telephone (202) 690–2857. Copies of the information collection may be obtained from Bonnie Hart at the above address.

The Office of Management and Budget (OMB) is required to make a decision concerning the collection(s) of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995, (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. The provisions in this rule will not impact small entities to a greater extent than large entities. The amount of work required of the insurance companies and the FSA offices delivering these policies and the procedures therein will not increase from the amount of work currently required to deliver previous policies to which this regulation applies. In fact, this action reduces the paperwork burden on the producer and the reinsured company because the yield is based on National Agricultural Statistics Service (NASS) yields rather than individual producer's yields. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections (2)(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions in 7 CFR parts 11 and 780 must be exhausted before action for judicial review may be brought against FCIC.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

The GRP program was established as a pilot program to test the market acceptance of a crop insurance product that establishes coverage using NASS county average yields rather than individual yields. It was designed to provide greater coverage for the insured's premium dollar. This product is less costly to administer than traditional crop insurance, and as a result, it helped to solve the problem of a costly administrative burden to the government. The Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66) and the Federal Crop Insurance Reform Act of 1994 (Public Law 103–354) amended the Federal Crop Insurance Act to authorize full implementation of the program.

The Agricultural Market Transition Act (AMTA) of 1995 set in motion the phase out of traditional agricultural programs by the year 2002. GRP is an alternative risk management product designed to provide a safety net for agricultural producers. During the pilot phase, we determined that the preliminary payment concept did not provide a significant benefit to a large number of insureds and was costly to administer. Consequently we have eliminated preliminary payments in the draft proposed rule. In addition, we determined that the GRP forage policy was deficient in that it did not provided coverage for producers whose forage was harvested through ''rotational grazing''. Our evaluation revealed that adding the practice of rotational grazing was an appropriate risk, and we included it as an insurable practice.

FCIC welcomes comments from the public, particularly from producers and the industry who are affected by GRP provisions on a daily basis. Ideas which were brought to our attention during the GRP pilot program, such as adding rotational grazing to the GRP Forage Crop Provisions, have contributed toward making GRP a better and more user friendly product.

FCIC hereby proposes regulations for a risk management product to be known as the Group Risk Plan. The Group Risk Plan Common Policy Basic Provisions and Crop Provisions for Barley, Corn, Cotton, Forage, Grain Sorghum, Peanuts, Soybeans and Wheat are proposed to be effective beginning with the 1998 and succeeding crop years. Group Risk Plan is a plan of insurance that indemnifies an insured whenever the NASS county yield for the crop year is less than the expected county average yield by more than a specified amount. Group Risk Plan provides protection against loss of crop production that affects a high percentage of the planted acreage in a county. It was developed for producers whose average yield from all the fields they farm in a county tends to increase or decrease in the same manner as the NASS county average yield. If the relationship of the yields is perfect, both the NASS county yield and the producer's yields would rise and fall by the same percentage each year. This is an insurance product for producers who want protection against catastrophic losses with minimal record

requirements to establish insurance protection.

List of Subjects in 7 CFR Part 407

Crop insurance, Group Risk Plan, Barley, Corn, Cotton, Forage, Grain sorghum, Peanut, Soybean, Wheat.

Proposed Rule

For the reasons set out in the preamble, the Federal Crop Insurance Corporation proposes to add a new part 407 to chapter IV of title 7 of the Code of Federal Regulations, effective for the 1998 and succeeding crop years, to read as follows.

PART 407—GROUP RISK PLAN OF INSURANCE; REGULATIONS FOR THE 1998 AND SUCCEEDING CROP YEARS

Sec.

Authority: 7 U.S.C. 1506(1), 1506(p).

§ 407.1 Applicability.

The provisions of this part are applicable only to those crops and crop years for which a Crop Provision is contained in this part.

§ 407.2 Availability of Federal Crop insurance.

(a) Insurance shall be offered under the provisions of this part on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.) (the Act). The crops and counties shall be designated by the Manager of the Federal Crop Insurance Corporation (Corporation) from those approved by the Board of Directors of the Corporation.

(b) The insurance may be offered through companies reinsured by the Corporation under the same terms and conditions as the contract contained in this part. These contracts are clearly identified as being reinsured by the Corporation. Additionally, this provision may be offered by means other than through reinsured companies. The contract contained in this part may be offered directly to producers through agents of the Farm Service Agency (FSA). Those contracts are specifically identified as being offered by the Corporation.

(c) No person may have in force more than one insurance policy issued or reinsured by the Corporation on the same crop for the same crop year, in the same county, unless specifically approved in writing by the Corporation.

(d) If a person has more than one contract under the Act outstanding on the same crop for the same crop year, in the same county, that have not been properly approved by the Corporation, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of the Corporation that the two policies of insurance were inadvertent and without the fault of the person.

(e) If the unapproved multiple contracts of insurance are shown to be inadvertent, and without the fault of the insured, the contract with the earliest application will be valid and all other contracts on that crop in the county for that crop year will be canceled. No liability for indemnity or premium will attach to the contracts so canceled.

(f) The person must repay all amounts received in violation of this section with interest at the rate contained in the contract (see § 407.8, paragraph 21).

(g) A person whose contract with the Corporation or with a company reinsured by the Corporation under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain crop insurance under the Act with the Corporation or with a company reinsured by the Corporation unless the person can show that the termination was improper and should not result in subsequent ineligibility.

(h) All applicants for insurance under the Act must advise the insurance provider, in writing, at the time of application, of any previous applications for insurance or policies of insurance under the Act and the present status of any such applications or insurance.

§ 407.3 Premium rates, amounts of protection, and coverage levels.

(a) The Manager of the Corporation shall establish premium rates, amounts of protection, and coverage levels for the insured crop that will be included in the actuarial table on file in the insurance provider's office for the county. Premium rates, amounts of protection, and coverage levels may be changed from year to year.

(b) At the time the application for insurance is made, the person must elect an amount of protection and a coverage level from among those contained in the actuarial table for the crop year.

§ 407.4 OMB control numbers.

The information collection activity associated with this rule has been previously approved by the Office of Management and Budget (OMB) under control number 0563–0003.

§ 407.5 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 407.6 Good faith reliance on misrepresentation.

(a) Notwithstanding any other provision of the crop insurance contract, whenever:

(1) A person entering into a contract of crop insurance under these regulations who, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(i) Is indebted to the Corporation for additional premiums; or

(ii) Has suffered a loss to a crop which is not insured or for which the person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(2) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that:

(i) An agent or employee of the Corporation made such misrepresentation or took other erroneous action or gave erroneous advice;

(ii) Said person relied thereon in good faith and acted thereon to the person's detriment; and

(iii) To require the payment of the additional premiums or to deny such person's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto.

(b) The following apply to FCIC Policy only: Requests for relief under this section must be submitted to the Corporation in writing. The

Corporation's reviewing officers must refer such application for relief to the Manager or Board of Directors of the Corporation for determination as to whether to grant relief. The Corporation's reviewing officers do not have authority to grant relief under this section.

(c) The following apply to Reinsured Policy only: The reinsured companies shall use arbitration, in accordance with the rules of the American Arbitration Association, under contracts for insurance issued by them under the Act to grant relief under the same terms and conditions as contained in this section or may establish procedures to administratively handle relief in accordance with such terms and conditions. Granting relief under this section does not absolve the reinsured company from liability to the Corporation for any unauthorized acts of its agents.

§ 407.7 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation or the reinsured company of a duly executed application for insurance on a form prescribed or approved by the Corporation. The contract shall consist of the accepted application, policy, crop provisions, Special Provisions, Actuarial Table, and any amendments, endorsements, or options thereto. Changes made in the contract shall not affect its continuity from year to year. Except as may be allowed under § 407.6, and at the sole discretion of the Corporation, no indemnity shall be paid unless the person complies with all terms and conditions of the contract. The forms required under this part and by the contract are available at the office of the insurance provider.

§ 407.8 The application and policy.

(a) Application for insurance, on a form prescribed or approved by the Corporation, must be made by any person who wishes to participate in the program in order to cover such person's share in the insured crop as landlord, owner-operator, crop ownership interest, or tenant. No other person's interest in the crop may be insured under the application. The application must be submitted to the Corporation or the reinsured company through a crop insurance provider, and must be submitted on or before the applicable sales closing date on file in the insurance provider's local office.

(b) The Corporation or the reinsured company may reject or no longer accept applications upon the Corporation's determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications, unless prohibited by law, upon determining that the probability and severity of claims will not increase because of the extension, by placing the extended date on file in the insurance provider's office and publishing a notice in the Federal Register. If adverse conditions should develop during the extended period, the Corporation will require the insurance provider to immediately discontinue acceptance of applications.

(c) Since this Group Risk Plan differs significantly from traditional multiple peril crop insurance (MPCI), persons who purchase the Group Risk Plan and their insurance providers will be required to execute a disclaimer explaining that: the final Group Risk Plan indemnity payment, if any, will be made after the Group Risk Plan premium is received; a person may have a low yield on his or her individual farm and still not receive a payment under Group Risk Plan; and a person may not have any loss of production and still collect under the policy if a loss of production is general in the area. By executing this disclaimer, the insured certifies that he or she understands:

(1) The Terms of the Group Risk Plan;

(2) A MPCI policy is available in the county; and

(3) A separate Group Risk Plan and MPCI policy cannot be purchased on the same crop by the same person in the same county for the same crop year.

§ 407.9 Group Risk Plan Common Policy.

United States Department of Agriculture
Group Risk Plan Common Policy

(This is a continuous policy. Refer to Provision 16.)

[FCIC Policies]

This insurance policy establishes a risk management program developed by the Federal Crop Insurance Corporation (FCIC), an agency of the United States Government, under the authority of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) (Act). All terms of the policy and rights and responsibilities of the parties hereto are subject to the Act and all regulations under the Act published in chapter IV of 7 CFR, and may not be waived or varied in any way by the crop insurance agent, or any other agent or employee of FCIC or the Farm Service Agency (FSA).

Throughout this policy, ''you'' and ''your'' refer to the person shown on the accepted application and ''we,'' ''us'' and ''our'' refer to the Federal Crop Insurance Corporation. Unless the context indicates otherwise, the use of the plural form of a word includes the singular use and the singular form of the word includes the plural.

[Reinsured Policies]

This insurance policy establishes a risk management program created by the Federal Crop Insurance Corporation (FCIC), an agency of the United States Government under the authority of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*)

This insurance policy is reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) (Act). All terms of the policy and rights and responsibilities of the parties are subject to the Act and all regulations under the Act published in chapter IV of 7 CFR, and may not be waived or varied in any way by the crop insurance agent, or any other agent or employee of the company.

Throughout this policy, ''you'' and ''your'' refer to the person shown on the accepted application and ''we,'' ''us'' and ''our'' refer to the reinsured company issuing this policy. Unless the context indicates otherwise, the use of the plural form of a word includes the singular use and the singular form of the word includes the plural.

[Both Policies]

The Group Risk Plan of Insurance (GRP) is designed as a risk management tool to insure against widespread loss of production of the insured crop in a county. It is primarily intended for use by those producers whose farm yields tend to follow the average county yield. It is possible for you to have a low yield on the acreage that you farm and still not receive a payment under this plan.

For limited or additional coverage you may select any percent coverage level shown on the Actuarial Table. Multiplying your coverage level percent by the expected county yield shown on the Actuarial Table gives your trigger yield. If the payment yield that FCIC publishes for the insured crop year falls below your trigger yield, you will receive a payment.

You may select any dollar amount of protection between 60 and 100 percent of the maximum dollar amount of protection shown on the Actuarial Table. This protection will be provided for each acre of the crop planted (unless otherwise provided in the crop provisions) in which you have a share, by the acreage reporting date.

In accordance with the Act, the Government will pay a portion of your premium, as published in the Actuarial Table. The premium rates, practices, types, maximum protection per acre, and maximum subsidy per acre are also shown on the Actuarial Table.

FCIC will issue the payment yield in the calendar year following the crop year insured. This yield will be the official estimated yield published by the National Agricultural Statistics Service (NASS), or successor agency. You will be paid if the payment yield falls below your trigger yield. The amount of your payment per net insured acre will be calculated by subtracting the payment yield from the trigger yield, dividing that quantity by the trigger yield, and multiplying that result by your protection per acre for each net acre that you have insured.

To be eligible to participate in the Group Risk Plan of Insurance for any crop in any

county, and to receive an indemnity thereunder, you must have an insurable interest in an insured crop that is planted in the county shown on the approved application. The crop must be planted for harvest and be reported to us by the acreage reporting date. You may only purchase coverage under the Group Risk Plan of Insurance on your net acres of the insured crop.

The insurance contract shall become effective upon the acceptance by us of a duly executed application for insurance on our form. Acceptance occurs when we issue a Summary of Protection to you. The policy shall consist of the accepted application, Group Risk Plan of Insurance Common Policy Basic Provisions, Crop Provisions, Special Provisions, Actuarial Table, and any amendments, endorsements, or options.

Agreement To Insure

In return for your payment of the premium and your compliance with all applicable provisions, we agree to provide risk protection as stated in this policy. If a conflict exists among the Group Risk Plan Basic Provisions, the Crop Provisions, and the Special Provisions, the Special Provisions will control the Crop Provisions and the Group Risk Plan Basic Provisions; and the Crop Provisions will control the Group Risk Plan Basic Provisions.

Terms and Conditions—Group Risk Plan of Insurance Basic Provisions

1. Definitions

Acreage report—A document that you must submit annually by the acreage reporting date, which contains the acreage planted to each insured crop, whether or not insurable, your report of your share of the insured crop, and any other information required by your insurance provider.

Acreage reporting date—The date contained in the Special Provisions by which you must submit your acreage report in order to be eligible for Group Risk Insurance.

Act—Federal Crop Insurance Act, as amended.

Actuarial Table—The forms and related material approved by FCIC, which are available for public inspection in your insurance provider's local office. The Actuarial Table shows the maximum protection per acre, expected county yield, coverage levels, premium rates, program dates, Special Provisions, and other related information with respect to the insured crop in the county for the crop year.

Billing date—The date, contained in the Actuarial Table, by which we will bill you for premium on the insured crop.

Cancellation date—The calendar date specified in each Crop Provision on which insurance for the next crop year will automatically renew unless the policy is canceled in writing by either you or us prior to that date.

County—A political subdivision of a State (also may be known as a parish or other name) that is stated on your accepted application.

Crop practice—The combination of inputs such as fertilizer, herbicide, and pesticide, and operations such as planting, cultivation, and irrigation, used to produce the insured crop. The insurable practices are contained in the Actuarial Table.

Crop provisions—The part of the policy that contains the specific terms of insurance for each insured crop.

Crop year—The period of time within which the insured crop is normally grown, and is designated by the calendar year in which the crop is normally harvested.

Expected county yield—The yield contained in the Actuarial Table, on which your coverage for the crop year is based. This yield is determined using historical NASS county average yields, adjusted for long term yield trends.

FCIC—The Federal Crop Insurance Corporation, an agency of USDA.

FSA—The Farm Service Agency or successor agency, USDA.

GRP—Group Risk Plan of Insurance.

Insurance provider—A private insurance company approved by FCIC which provides crop insurance coverage to producers participating in any Federal crop insurance program administered under the Act.

MPCI—Multiple peril crop insurance offered under the authority of the Act.

NASS—National Agricultural Statistics Service of the USDA or its successor, which publishes the official United States Government yield estimates.

Net acres—The planted acreage of the insured crop multiplied by your share.

Payment yield—The yield determined by FCIC based on NASS yields for each insurable crop's type and practice, and used to determine whether an indemnity will be due.

Person—An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a state or a political subdivision or agency of a state.

Protection per acre—The dollar amount per acre selected by you for each insured crop practice and type specified in the Actuarial Table. Your protection per acre is shown on your Summary of Protection.

Sales closing date—The date contained in the Actuarial Table by which you must file your signed application with us.

Share—Your percentage of interest in the insured crop, as an owner, operator, or tenant. Premium will be determined on your share as of the acreage reporting date. Any indemnity which may be due will be determined based on your share on the acreage reporting date or on the date of harvest, whichever is less. You may insure only your share of the crop, which may include any share of your spouse and dependent children unless it is demonstrated to our satisfaction, prior to the sales closing date, that the farming operations of you and your spouse are maintained completely separate and apart from each other and that each spouse is the operator of his or her own separate operation. Any commingling of any part of the operations will cause shares of you and your spouse to be combined.

Special Provisions—The part of the Actuarial Table that contains specific provisions of insurance for each crop that may vary by geographic area.

Subsidy—The portion of your premium, shown as minimum and maximum amounts in the Actuarial Table, that the Government will pay in accordance with the Act.

Summary of Protection—Our statement to you of the crop insured, protection per acre, premiums, and other information obtained from your accepted application, acreage report, and the Actuarial Table.

Termination date—The calendar date contained in the Crop Provisions upon which insurance on your crop will cease due to your failure to pay premiums or any other amount you owe us.

Trigger yield—The result of multiplying the expected county yield by the coverage level percentage chosen by you. When the payment yield falls below the trigger yield, a payment is made.

Type—Plants of the insured crop having common traits or characteristics that distinguish them as a group or class, and which are designated in the Actuarial Table.

USDA—United States Department of Agriculture.

2. Insured Crop

The insured crop will be the crop shown on your accepted application and as specified in the applicable crop provisions, and must be grown on insurable acreage.

3. Insured and Insurable Acreage

(a) The insurable acreage is all of the acreage of the insured crop for which premium rates are provided by the Actuarial Table and in which you have an interest and which acreage is in the county or counties listed in your accepted application. The protection per acre, amount of premium, and indemnity will be calculated separately for each county, type, and practice.

(b) Only the acreage planted to the insured crop on or before the acreage reporting date (except forage) and physically located in the county or counties listed on your accepted application will be insured. Crops grown on acreage physically located in another county must be reported and insured separately.

(c) We will not insure any crop grown on any acreage where the crop was destroyed or put to another use during the insurance period for the purpose of conforming with, or obtaining a payment under, any other program administered by the USDA.

(d) We will not insure any acreage where you have failed to follow good farming practices for the insured crop.

4. Policy Protection

(a) For catastrophic risk protection GRP policies, the dollar amount of protection per acre is shown on the Actuarial Table for each insured crop, practice, and type. For limited and additional coverage GRP policies, you may select any percentage of the maximum amount of protection per acre shown on the Actuarial Table for the crop, practice, and type.

(b) The dollar amount of protection per acre, multiplied by your net insured acreage, is your policy protection for each insured crop, practice, and type specified in the Actuarial Table.

5. Coverage Levels

(a) For catastrophic risk protection GRP policies, the coverage level is shown on the Actuarial Table for each insured crop,

practice, and type. For limited and additional coverage GRP policies, you may select any percentage of coverage shown on the Actuarial Table for the crop, practice, and type.

(b) Your coverage level multiplied by the expected county yield shown on the Actuarial Table is your trigger yield. If the payment yield, published by FCIC for the insured crop, practice, and type for the insured crop year falls below your trigger yield, you will receive an indemnity payment.

6. Payment Calculation Factor

Your payment calculation factor will be ((your trigger yield—payment yield)÷your trigger yield) for the purposes of calculating the final payment.

7. Report of Acreage and Share

(a) You must report on our form all acreage for each insured crop, practice, and type specified in the Actuarial Table in each county listed on your accepted application in which you have a share. This report must be submitted each year on or before the acreage reporting date for the insured crop contained in the Actuarial Table. If you do not submit an acreage report by the acreage reporting date, we may determine your acreage and share or deny liability on the policy.

(b) We will not insure any acreage of the insured crop planted after the acreage reporting date.

(c) Your premium will be based on the acreage reported as of the acreage reporting date or the acreage determined by us.

(d) The payment of an indemnity will be based on your insurable acreage on the acreage reporting date or the date of harvest, whichever is less. If the insurable acreage at the date of harvest is less than the insurable acreage on the acreage report, a revised acreage report will be required prior to the payment of an indemnity. Neither the amount of acreage or your share may be revised to increase your policy protection.

(e) If you misrepresent any information, we may revise the premium or liability or both for each insured crop in the county, by type and practice to the amount we determine to be correct.

8. Administrative Fees and Annual Premium

(a) If you obtain a catastrophic risk protection GRP policy, you will pay an administrative fee of $50 per crop per county, not to exceed $200 per producer per county up to a maximum of $600 per producer, at the time of application. For continuous catastrophic risk protection policies in effect, the administrative fee will be paid on or before the acreage reporting date.

(b) If you obtain a limited coverage GRP policy, you will pay an administrative fee of $50 per crop per county, not to exceed $200 per county up to a maximum of $600 per producer. The administrative fee will be payable under the same terms and conditions as the premium for the policy.

(c) If you obtain an additional coverage GRP policy, you will pay an administrative fee of $10 for each crop. The administrative fee will be payable under the same terms and conditions as the premium for the policy.

(d) For limited and additional coverage GRP policies, your premium is determined by multiplying your policy protection times the premium rate per hundred dollars of protection for your coverage level, times 0.01, less the applicable subsidy.

(e) The annual premium is earned and payable at the time the insured crop is planted. For each insured crop, you will be billed for premium by the billing date specified in the Special Provisions. Premium is due on the billing date and interest will accrue if the premium is not received by us before the first day of the month following the premium billing date.

(f) The premium due, plus any accrued interest, will be considered delinquent if any amount due us is not received by us on or before the termination date listed in the crop provisions. This may affect your eligibility for benefits under other USDA programs. A debt for any crop insured with us under the authority of the Act will be deducted from any replant payment, indemnity due you for any other crop insured with us.

(g) Failure to pay the premium due, plus any accrued interest and penalties, by the termination date will make you ineligible for any crop insurance under the Act for subsequent crop years until the debt, including interest and penalties, is paid.

9. Written Agreements

As specified in the Crop Provisions, designated terms of the policy may be altered by written agreement. Each written agreement must be applied for by the producer in writing prior to the sales closing date and is valid for one year only. If not specifically renewed the following year, continuous insurance will be in accordance with the printed policy. All applications for written agreements as submitted by the producer must contain all variable terms of the contract between the insurance provider and the producer that will be in effect if the written agreement is not approved.

10. Access to Insured Crop and Record Retention

We may examine the insured crop and any records relating to the crop and this insurance at any location where such crop or such records may be found or maintained, as often as we reasonably require. Records relating to the planting of the insured crop and your net acres must be retained for three years after the end of the crop year or three years after the date of payment of the final indemnity, whichever is later. Failure to maintain such records may, at our option, result in cancellation of the policy or determination that no indemnity is due.

11. Transfer of Right to Indemnity

If you transfer any part of your share during the crop year, you also may transfer the equivalent part of your right to payment under this policy. Any transfer must be on our form and is effective upon our written approval. Both you and the person to whom you transfer your right are jointly and severally liable for payment of the premium.

12. Assignment of Indemnity

You may assign your right to an indemnity payment to another person for the current crop year. The assignment must be on our form and is effective upon our written approval.

13. Other Insurance

You may not obtain any other crop insurance product subsidized under the Act for the insured crop in the counties listed on your accepted application. If we determine that there is more than one policy in effect that covers your share, the policy with the earliest application date will be in effect and all later policies will be void.

[FCIC Policy]

14. Suit Against Us

You cannot bring suit against us unless you have complied with all of the policy provisions and exhausted all administrative remedies. Any suit based on denial of a claim must be brought within one year after the date on which final notice of denial of the claim is provided to you. Any suit brought against us based on the denial of a claim must be brought in the United States district court in the district where your insured farm is located.

[Reinsured Policy]

14. Suit Against Us

You cannot bring suit against us unless you have complied with all of the policy provisions. If you do file suit against us based on the denial of a claim, you must do so within one (1) year of the final notice of denial of the claim.

[FCIC Policy]

15. Restrictions, Limitations, and Amounts Due Us

(a) We may restrict the amount of acreage we will insure to the amount allowed under any acreage limitation program established by the USDA.

(b) Violation of Federal statutes including, but not limited to, the Act; the Food Security Act of 1985; the Food, Agriculture, Conservation, and Trade Act of 1990; and the Omnibus Budget Reconciliation Act of 1993, and any regulation promulgated thereunder, will result in cancellation, termination, or voidance of your crop insurance contract. You must repay any and all monies paid to you or received by you, and the amount of premium you paid less up to 30 percent for administrative expenses will be refunded to you.

(c) Our maximum liability under this policy will be limited to the policy protection specified in section 4 of this policy. Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such indemnity.

(d) Any delinquent amount due us may be deducted from any loan or payment due you under any Act of Congress or program administered by the USDA or its agencies or from any amount due you from any other United States Government agency.

(e) Interest will accrue at the rate not to exceed one and one-quarter percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium

balance. Interest will begin to accrue on the first day of the month following the billing date.

(f) We will pay simple interest computed on the net indemnity ultimately found to be due by us or determined by a final judgment of a court of competent jurisdiction or a final administrative determination from, and including, the 61st day after the date we receive the NASS county yield estimates for the insured crop year. Interest will be paid only if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the Federal Register.

(g) For repayment of indemnities found not to have been earned, interest will start to accrue on the date that notice for the collection of the unearned amount is issued to you. Interest on the unearned amount will not be charged if payment is made in full within 30 days after the date shown on the notice issued to you. Interest and penalties will be charged in accordance with 31 U.S.C. 3717 and 4 CFR part 102. The penalty for accounts more than 90 days past due is six percent (6%) per annum. See 31 U.S.C. 3717(e)(2) and 4 CFR 122.13(e). Interest on any amount due us found to have been received by you because of fraud, misrepresentation, or presentation of a false claim by you will start on the date you received the amount, with the 6 percent (6%) penalty beginning 31days after the notice of amount due. This interest is in addition to any other amount found to be due under any other Federal criminal or civil statute.

(h) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection.

(i) All amounts paid will be applied first to the expenses of collection, second to any penalties which may have been assessed, then to accrued interest, and finally, to reduction of the principal balance.

[Reinsured Policy]

15. Restrictions, Limitations, and Amounts Due Us

(a) We may restrict the amount of acreage we will insure to the amount allowed under any acreage limitation program established by the USDA.

(b) Violation of Federal statutes including, but not limited to, the Act; the Food Security Act of 1985; the Food, Agriculture, Conservation, and Trade Act of 1990; and the Omnibus Budget Reconciliation Act of 1993, and any regulation promulgated thereunder, will result in cancellation, termination, or voidance of your insurance contract. You must repay any and all monies paid to you or received by you, and the amount of premium you paid less 30 percent for administrative expenses will be refunded.

(c) Our maximum liability under this policy will be limited to the policy protection specified in section 4 of this policy. Under no circumstances will we be liable for the payment of other amounts including compensatory, punitive, or other damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such indemnity.

(d) For repayment of amounts found not to have been earned, such as overpaid indemnities, interest will start to accrue on the date notice for the collection of the unearned amount is issued to you. Interest on unearned amounts will not be charged if payment in full is made within 30 days after the date shown on the notice issued to you. For premium amounts due us, interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions. Interest not to exceed one and one-quarter percent (1¼%) simple interest per calendar month, will be charged on unearned indemnities and on past-due premium.

(e) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection.

(f) All amounts paid will be applied first to the payment of expenses of collection, second to reduction of any penalties which may have been assessed, then to reduction of accrued interest, and, finally, to reduction of the principal balance.

[Both Policies]

16. Death, Disappearance, or Incompetence of the Insured

If, after insurance attaches, you die, disappear, or are judicially declared incompetent, or if you are a person other than an individual and such person is dissolved, any payment due will be paid to the person legally determined to be beneficially entitled to it. If such events occur prior to the attachment of insurance, the policy will terminate as of the date of death, judicial declaration, or dissolution.

[FCIC Policy]

17. Determinations

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration or you may appeal our determinations in accordance with 7 CFR parts 11 and 780.

[Reinsured Policy]

17. Determinations

If a dispute arises out of or relates to this policy, at the election of either of us, such dispute shall be settled by arbitration in accordance with the rules of the American Arbitration Association. If arbitration is elected by either party, no suit at law or in equity based on such disputes shall be instituted by either party, other than to enforce the decision in arbitration.

[Both Policies]

18. Holidays and Weekends

If any date specified in this program falls on Saturday, Sunday, or a legal Federal holiday, then the date will be extended to the next business day.

19. Life of Policy and Policy Renewal

(a) This is a continuous policy that remains in effect unless it is canceled in writing by either you or us on or before the cancellation date.

(b) This policy will automatically terminate for the subsequent crop year if you have not paid any amount due us by the termination date.

(c) You may change the coverage level or amount of protection for each insured crop on or before the sales closing date. Changes must be in writing and received by us by the sales closing date.

(d) The cancellation and termination dates are contained in the Crop Provisions for each insured crop.

20. Policy Changes

We may change any terms and conditions of this policy from year to year. All policy changes will be filed in your insurance provider's office before the contract change date for the insured crop contained in the Crop Provisions. You will be advised of policy changes by written notice mailed to the address of record contained in your insurance provider's office. This notice will be mailed as soon after the contract change date as practical.

An Example To Demonstrate How GRP Works

Producer A buys ninety percent (90%) coverage and selects $160 protection per acre. Producer B buys seventy-five percent (75%) coverage and selects $185 protection per acre. Both producers have one-hundred percent (100%) share and both plant 200 acres of a crop in the county. The expected county yield is 45 bushels. The premium rate for ninety percent (90%) coverage is $6.14 per hundred dollars of protection and the premium rate for seventy-five percent (75%) coverage is $3.30 per hundred dollars of protection. The maximum subsidy amount per acre is $3.07 and the limited subsidy amount is $2.21 per acre.

A's trigger yield is 40.5 bushels per acre (90% of 45), and the total premium due is $1,965 ($160 multiplied by $6.14 multiplied by 200 acres multiplied by 0.01). Of that amount, FCIC pays $614 (200 acres multiplied by the maximum subsidy of $3.07 per acre). A's policy protection is $32,000 ($160 multiplied by 200 acres). B's trigger yield is 33.8 bushels per acre (75% of 45), and the total premium due is $1,221 ($185 multiplied by $3.30 multiplied by 200 acres multiplied by 0.01). Of that amount, FCIC pays $442 (200 acres multiplied by the limited subsidy amount of $2.21 per acre). B's policy protection is $37,000 ($185 multiplied by 200 acres).

Scenario 1 (Likely)

FCIC issues a payment yield of 46 bushels per acre. This is above both producers' trigger yields, so no indemnity payment is made, even if one or both of them have low individual yields.

Scenario 2 (Less Likely)

FCIC issues a payment yield of 38 bushels per acre. A's payment calculation factor is 0.062 ((40.5 − 38)÷40.5)). This number

multiplied by the policy protection yields an indemnity payment of $1,984 (.062 multiplied by $32,000). B's trigger yield is below the payment yield, so no indemnity payment is made.

Scenario 3 (Least Likely)

FCIC issues a payment yield of 22 bushels per acre. A's payment calculation-factor of 0.457 ((40.5 − 22)÷40.5). The payment is $14,624 (0.457 multiplied by $32,000). B's payment calculation factor is 0.349 ((33.8 − 22)÷33.8), and the final indemnity payment is $12,913 (0.349 multiplied by $37,000).

[Both Policies]

21. Eligibility for Other Farm Program Benefits

If GRP, or any other plan of insurance, is available in the county, to remain eligible for benefits under the Agriculture Marketing Transition Act, the conservation reserve program, or certain farm loans, you are required to obtain at least the catastrophic level of either GRP or such other insurance for all crops of economic significance or execute a waiver of your rights to any emergency crop assistance on or before the sales closing date for the crop.

§ 407.10 Group Risk Plan for Barley.

1. Definitions

Harvest—Combining or threshing the barley for grain.

NASS yield—The yield calculated by dividing the NASS estimate of the production of barley in the county by the NASS estimate of the acres of barley for each type and practice contained in the Actuarial Table. The Actuarial Table states whether harvested or planted acres of barley are used to establish the expected county yield and calculate indemnities.

Planted Acreage—Land in which the barley seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Land on which seed is initially spread onto the soil surface by any method and which subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth, will also be considered planted.

2. Crop Insured

The insured crop will be all barley:

(a) Grown on insurable acreage in the county or counties listed in the accepted application;

(b) Properly planted and reported by the acreage reporting date;

(c) Planted with the intent to be harvested as grain; and

(d) Not planted into an established grass or legume, interplanted with another crop, or planted as a nurse crop, unless seeded at the normal rate and intended for harvest as grain.

3. Payment

(a) A payment will not be made unless your trigger yield is less than the payment yield for the insured crop year.

(b) Payment yields will be determined prior to the April 1 following the crop year.

(c) We will issue any payment to you prior to the May 1 immediately following our determination of the payment yield.

(d) The payment is equal to the payment calculation factor multiplied by your policy protection for each insured crop practice and type specified in the Actuarial Table.

(e) The payment will not be revised even though the NASS yield may be subsequently revised.

4. Program Dates

State and county	Cancellation and termination dates	Contract change date
Kit Carson, Lincoln, Elbert, El Paso, Pueblo, Las Animas Counties, Colorado and all Colorado Counties south and east thereof; all New Mexico counties except Taos County; Kansas; Missouri; Illinois; Indiana; Ohio; Pennsylvania; New York; Massachusetts; and all states south and east thereof.	September 30	June 30.
Arizona; California; and Clark and Nye Counties, Nevada	October 31	June 30.
All Colorado counties except Kit Carson, Lincoln, Elbert, EL Paso, Pueblo, and Las Animas Counties and all Colorado counties south and east thereof; all Nevada counties except Clark and Nye Counties; Taos County, New Mexico; and all other states except: Arizona, California, and (except) Kansas, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New York, and Massachusetts and all States south and east thereof.	March 15	November 30.

§ 407.11 Group Risk Plan for Corn.

1. Definitions

Harvest—Combining or picking corn for grain, or severing the stalk from the land and chopping the stalk and ear for the purpose of livestock feed.

NASS yield—The yield calculated by dividing the NASS estimate of the production of corn in the county by the NASS estimate of the acres of corn, for each type and practice contained in the Actuarial Table. The Actuarial Table states whether harvested or planted acres of corn are used to establish the expected county yield and calculate indemnities.

Planted acreage—Land in which the corn seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

2. Crop Insured

The insured crop will be all field corn:

(a) Grown on insurable acreage in the county or counties listed in the accepted application;

(b) Properly planted and reported by the acreage reporting date;

(c) Planted with the intent to be harvested as grain or silage; and

(d) Not planted into an established grass or legume or interplanted with another crop.

Hybrid seed corn, popcorn, sweet corn, and other specialty corn may be insured only if a written agreement exists between you and us. Your request to insure such crop must be in writing and submitted to your agent not later than the sales closing date.

3. Payment

(a) A payment will not be made unless your trigger yield is less than the payment yield for the insured crop year.

(b) Payment yields will be determined prior to April 16 following the crop year.

(c) We will issue any payment to you prior to the May 16 immediately following our determination of the payment yield.

(d) The payment is equal to the payment calculation factor multiplied by your policy protection for each insured crop practice and type specified in the Actuarial Table.

(e) The payment will not be revised even though the NASS yield may be subsequently revised.

4. Program Dates

State and county	Cancellation and termination dates	Contract change date
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	January 15	November 30.
El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, and Cooke Counties, Texas, and all Texas Counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 15	November 30.

State and county	Cancellation and termination dates	Contract change date
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina.	February 28	November 30.
All other Texas counties and all other states	March 15	November 30.

§ 407.12 Group Risk Plan for Cotton.

1. Definitions

Harvest—Removal of the seed cotton from the stalk.

NASS yield—The yield calculated by dividing the NASS estimate of the production of cotton in the county by the NASS estimate of the acres of cotton, for each type and practice contained in the Actuarial Table. The Actuarial Table states whether harvested or planted acres of cotton are used to establish the expected county yield and calculate indemnities.

Planted acreage—Land in which the cotton seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

2. Crop Insured

The insured crop will be all cotton:

(a) Grown on insurable acreage in the county or counties listed in the accepted application;

(b) Properly planted and reported by the acreage reporting date;

(c) Planted with the intent to be harvested; and

(d) Not colored lint cotton planted into an established grass or legume, interplanted with another spring planted crop, grown on acreage where hay was harvested in the same calendar year unless irrigated, grown on acreage where a small grain crop reached the heading stage unless irrigated.

3. Payment

(a) A payment will not be made unless your trigger yield is less than the payment yield for the insured crop year.

(b) Payment yields will be determined prior to July 16 following the crop year.

(c) We will issue any payment to you prior to the August 16 immediately following our determination of the payment yield.

(d) The payment is equal to the payment calculation factor multiplied by your policy protection for each insured crop practice and type specified in the Actuarial Table.

(e) The payment will not be revised even though the NASS yield may be subsequently revised.

4. Program Dates

State and county	Cancellation and termination dates	Contract change date
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	January 15	November 30.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, and Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 28	November 30.
All other Texas counties and all other States	March 15	November 30.

§ 407.13 Group Risk Plan for Forage.

1. Definitions

Harvest—Removal of the forage from the field, and rotational grazing.

NASS yield—The yield calculated by dividing the NASS estimate of the production of the crop practice and type shown on the Actuarial Table for this purpose by the NASS estimate of the acres of such crop harvested that year in the county, for each practice and type contained in the Actuarial Table.

Planted acreage—Land seeded to forage, by a planting method appropriate for forage, into a properly prepared seedbed.

Rotational grazing—The defoliation of the insured forage by livestock, within a pasturing system where the forage field is subdivided into smaller parcels and livestock are moved from one area to another, allowing a period of grazing followed by a period for forage regrowth.

2. Crop Insured

The insured crop will be the forage types shown on the Special Provisions:

(a) Grown on insurable acreage in the county or counties listed in the accepted application;

(b) Properly planted and reported by the acreage reporting date;

(c) Intended for harvest; and

(d) Not grown with another crop.

3. Insurable Acreage

In lieu of section 3. (Insured and Insurable Acreage) of the Basic Provisions of the Group Risk Plan Common Policy (§ 407.9), only acreage seeded to forage on or before July 1 of the previous crop year and physically located in the counties listed on your application will be insurable. Acreage physically located in another county not listed on the accepted application is not insured under this policy.

4. Payment

(a) A payment will not be made unless your trigger yield is less than the payment yield for the insured crop year.

(b) Payment yields will be determined prior to May 1 following the crop year.

(c) We will issue any payment to you prior to the May 31 immediately following our determination of the payment yield.

(d) The payment is equal to the payment calculation factor multiplied by your policy protection for each insured crop practice and type specified in the Actuarial Table.

(e) The payment will not be revised even though the NASS yield may be subsequently revised.

5. Program Dates

November 30 is the Cancellation and Termination Date for all States. The Contract Change Date is June 30 for all States.

6. Annual Premium

In lieu of Provision 6(b) of the Basic Provisions of the Group Risk Plan Common Policy, the annual premium is earned and payable on the acreage reporting date. You will be billed for premium due on the date shown in the Special Provisions. The premium will be determined based on the rate shown on the Actuarial Table.

§ 407.14 Group Risk Plan for Sorghum.

1. Definitions

Harvest—Combining or threshing the sorghum for grain, or severing the stalk from the land and chopping the stalk and head for the purpose of livestock feed.

NASS yield—The yield calculated by dividing the NASS estimate of the production of sorghum in the county by the NASS estimate of the acres of sorghum, for each type and practice contained in the Actuarial Table. The Actuarial Table states whether harvested or planted acres of sorghum are used to establish the expected county yield and calculate indemnities.

Planted acreage—Land in which the sorghum seed has been placed by a machine

appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

2. Crop Insured

The insured crop will be all sorghum:

(a) Grown on insurable acreage in the county or counties listed in the accepted application;

(b) Properly planted and reported by the acreage reporting date;

(c) Planted with the intent to be harvested as grain or silage; and

(d) Not interplanted with an established grass or legume or interplanted with another crop.

Hybrid sorghum seed may be insured only if a written agreement exists between you and us. Your request to insure such crop must be in writing and submitted to your agent not later than the sales closing date.

3. Payment

(a) A payment will not be made unless your trigger yield is less than the payment yield for the insured crop year.

(b) Payment yields will be determined prior to April 16 following the crop year.

(c) We will issue any payment to you prior to the May 16 immediately following our determination of the payment yield.

(d) The payment is equal to the payment calculation factor multiplied by your policy protection for each insured crop practice and type specified in the Actuarial Table.

(e) The payment will not be revised even though the NASS yield may be subsequently revised.

4. Program Dates

State and county	Cancellation and termination dates	Contract change date
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	January 15	November 30.
El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 15	November 30.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina.	February 28	November 30.
All other Texas counties and all other states	March 15	November 30.

§ 407.15 Group Risk Plan for Peanuts.

1. Definitions

Harvest—Combining or threshing the peanuts.

NASS yield—The yield calculated by dividing the NASS estimate of the production of peanuts in the county by the NASS estimate of the acres of peanuts, for each type and practice contained in the Actuarial Table. The Actuarial Table states whether harvested or planted acres of peanuts are used to establish the expected county yield and calculate indemnities.

Planted acreage—Land in which the peanut seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

2. Crop Insured

The insured crop will be all peanuts:

(a) Grown on insurable acreage in the county or counties listed in the accepted application;

(b) Properly planted and reported by the acreage reporting date; and

(c) Planted with the intent to be harvested as peanuts.

3. Payment

(a) A payment will not be made unless your trigger yield is less than the payment yield for the insured crop year.

(b) Payment yields will be determined prior to June 16 following the crop year.

(c) We will issue any payment to you prior to the July 16 immediately following our determination of the payment yield.

(d) The payment is equal to the payment calculation factor multiplied by your policy protection for each insured crop practice and type specified in the Actuarial Table.

(e) The payment will not be revised even though the NASS yield may be subsequently revised.

4. Program Dates

State and County	Cancellation and termination dates	Contract change date
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas and all Texas Counties lying south thereof..	January 15	November 30.
El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties south and east thereof; and all other states.	February 28	November 30.
New Mexico; Oklahoma; and all other Texas Counties	March 15	November 30.

§ 407.16 Group Risk Plan for Soybeans.

1. Definitions

Harvest—Combining or threshing the soybeans.

NASS yield—The yield calculated by dividing the NASS estimate of the production of soybeans in the county by the NASS estimate of the acres of soybeans, for each type and practice contained in the Actuarial Table. The Actuarial Table states whether harvested or planted acres of soybeans are used to establish the expected county yield and calculate the indemnities.

Planted acreage—Land in which the soybean seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Land on which seed is initially spread onto the soil surface by any method and which subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth, will also be considered planted.

2. Crop Insured

The insured crop will be all soybeans:

(a) Grown on insurable acreage in the county or counties listed in the accepted application;

(b) Properly planted and reported by the acreage reporting date;

(c) Planted with the intent to be harvested as soybeans; and

(d) Not planted into an established grass or legume or interplanted with another crop.

3. Payment

(a) A payment will not be made unless your trigger yield is less than the payment yield for the insured crop year.

(b) Payment yields will be determined prior to April 16 following the crop year.

(c) We will issue any payment to you prior to the May 16 immediately following our determination of the payment yield.

(d) The payment is equal to the payment calculation factor multiplied by your policy protection for each insured crop practice and type specified on the Actuarial Table.

(e) The payment will not be revised even though the NASS yield may be subsequently revised.

4. Program Dates

State and county	Cancellation and termination dates	Contract change date
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas and all Texas counties lying south thereof.	February 15	November 30.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, and Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 28	November 30.
All other Texas counties and all other states	March 15	November 30.

§ 407.17 Group Risk Plan For Wheat.

1. Definitions

Harvest—Combining or threshing the wheat for grain.

NASS yield—The yield calculated by dividing the NASS estimate of the production of wheat in the county by the NASS estimate of the acres of wheat, for each type and practice contained in the Actuarial Table. The Actuarial Table states whether harvested or planted acres of wheat are used to establish the expected county yield and calculate indemnities.

Planted acreage—Land in which the wheat seed has been planted by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Land on which seed is initially spread onto the soil surface by any method and which subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth, will also be considered planted.

2. Crop Insured

The insured crop will be all wheat:

(a) Grown on insurable acreage in the county or counties listed in the accepted application;

(b) Properly planted and reported by the acreage reporting date;

(c) Planted with the intent to be harvested as grain; and

(d) Not planted into an established grass or legume, interplanted with another crop, or planted as a nurse crop, unless seeded at the normal rate and intended for harvest as grain.

3. Payment

(a) A payment will not be made unless your trigger yield is less than the payment yield for the insured crop year.

(b) Payment yields will be determined prior to April 1 following the crop year.

(c) We will issue any payment to you prior to the May 1 immediately following our determination of the payment yield.

(d) The payment is equal to the payment calculation factor multiplied by your policy protection for each insured crop practice and type specified in the Actuarial Table.

(e) The payment will not be revised even though the NASS yield may be subsequently revised.

4. Program Dates

State and county	Cancellation and termination dates	Contract change date
All Colorado counties except Alamosa, Conejos, Costilla, Rio Grande, and Saguache; all Montana counties except Daniels, Roosevelt, Sheridan, and Valley Counties; all South Dakota counties except Harding, Perkins, Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, McCook, Turner, and Yankton Counties and all South Dakota counties north and east thereof; all Wyoming counties except Big Horn, Fremont, Hot Springs, Park, and Washakie Counties; and all other states except Alaska, Arizona, California, Maine, Minnesota, Nevada, New Hampshire, North Dakota, Utah, and Vermont.	September 30	June 30.
Arizona; California; Nevada; and Utah	October 31	June 30.
Alaska; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Harding, Perkins, Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, McCook, Turner, and Yankton Counties South Dakota, and all South Dakota counties north and east thereof; Vermont; and Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming.	March 15	November 30.

Signed in Washington, DC, on October 1, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–25640 Filed 10–07–96; 8:45 am]

BILLING CODE 3410–FA–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 935

[No. 96–62]

Advances To Nonmembers

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Board of Directors of the Federal Housing Finance Board (Finance Board) is proposing to amend its regulation on Federal Home Loan Bank (FHLBank) advances to nonmembers. The proposed rule establishes uniform eligibility requirements and review criteria for determining whether an entity may be certified as a nonmember mortgagee eligible to receive FHLBank advances and devolves responsibility for making

that determination from the Finance Board to the FHLBanks. The Finance Board also is proposing to revise the definition of the term ''state housing finance agency'' (SHFA) to include all Indian housing authorities (IHAs). The proposed rule is part of the Finance Board's continuing effort to devolve management and governance responsibilities to the FHLBanks and is consistent with the goals of the National Homeownership Strategy and the Regulatory Reinvention Initiative of the National Performance Review.

DATES: The Finance Board will accept comments on this proposed rule in writing on or before December 9, 1996.

ADDRESSES: Mail comments to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Laura K. St. Claire, Financial Analyst, Financial Management Division, Office of Policy, 202/408–2811, Christine M. Freidel, Assistant Director, Financial Management Division, Office of Policy, 202/408–2976, or, Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408–2505, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10b of the Federal Home Loan Bank Act (Bank Act) establishes the requirements for access by nonmember mortgagees to FHLBank advances. See 12 U.S.C. 1430b. In order to be certified as a nonmember mortgagee, an entity must: (1) be approved by the Department of Housing and Urban Development (HUD) as a ''mortgagee'' under title II of the National Housing Act; (2) be chartered under law and have succession; (3) be subject to the inspection and supervision of a governmental agency; and (4) lend its own funds as its principal activity in the mortgage field. *Id.* section 1430b(a).

Under section 10b(a) of the Bank Act, advances to nonmember mortgagees are not subject to the general collateral requirements of section 10(a) of the Bank Act. Id. Instead, a FHLBank may make advances to nonmember mortgagees only upon the security of mortgages insured by the Federal Housing Administration (FHA) under title II of the National Housing Act. Id. The amount of any advance may not exceed 90 percent of the unpaid principal of the collateral pledged as security for the advance. Id.

The Bank Act imposes less restrictive collateral requirements on certain advances to nonmember mortgagees that are SHFAs. *Id.* section 1430b(b). Under section 10b(b) of the Bank Act, advances to SHFA nonmember mortgagees that facilitate mortgage lending to low- or moderate-income individuals and families (meeting the income requirements in section 142(d) or 143(f) of the Internal Revenue Code, generally up to 115 percent of the area median income) need not be secured by FHA-insured mortgage loans if the advances otherwise meet the requirements of section 10(a) of the Bank Act and any real estate collateral pledged to secure the advances is comprised of single- or multi-family residential mortgages. *Id.* sections 1430b(b), 1430(a); 26 U.S.C. 142(d), 143(f). Under section 10(a), four categories of collateral are eligible to secure advances to members. *See* 12 U.S.C. 1430(a). The four categories are: (1) fully disbursed whole first mortgage loans on improved residential real property or securities representing a whole interest in such mortgages; (2) securities issued, insured, or guaranteed by the United States government or any agency thereof; (3) deposits of a FHLBank; and (4) other real estate related collateral if such collateral has a readily ascertainable value and the FHLBank can perfect its interest therein.[1]

The Finance Board originally sought public comments concerning the qualifications for nonmember mortgagees and the terms and conditions under which FHLBanks may make advances to certified nonmember mortgagees in October 1992. *See* 57 FR 45338 (Oct. 1, 1992) (proposed rule). The Finance Board received four comment letters. Because Congress enacted legislation affecting advances to nonmember mortgagees shortly after publication of the proposed rule, *see* Housing and Community Development Act of 1992, Pub. L. 102–550, Title XIII, section 1392(b), 106 Stat. 4009 (Oct. 28, 1992), the Finance Board again sought public comments in May 1993. *See* 58 FR 29474 (May 20, 1993), *codified at* 12 CFR 935.1, 935.20–935.22 (interim final rule with request for comments). In response to this second request, the Finance Board received six comment letters. Given the passage of time since the original notices, the experiences of the FHLBanks in administering the nonmember mortgagee advance programs during that period, and the Finance Board's effort to devolve corporate governance authority to the FHLBanks, the Board of Directors of the Finance Board has decided to reopen the advances to nonmembers regulation for comment. The Finance Board will consider all comments it receives before taking final action, including comments received in response to the interim final rule published in May 1993 and this notice of proposed rulemaking. However, those who submitted comments in response to the interim final rule may wish to update their earlier submissions.

II. Analysis of the Proposed Rule

A.Definitions

The proposed rule amends the definition of the term ''state housing finance agency'' that appears currently in § 935.1 of the Finance Board's regulations. *See* 12 CFR 935.1. The Finance Board proposes to retain the current meaning as the first paragraph of the new definition and add a second paragraph that includes IHAs established under tribal law as SHFAs. Currently, only IHAs chartered under state law are eligible for certification as SHFA nonmember mortgagees. According to HUD's Office of Native American Programs, of the 209 IHAs it currently recognizes, approximately 39 are chartered under state law and the remaining 170 are chartered under tribal law. Proposed paragraph two, which is based on the definition found in the Indian Self Determination and Education Assistance Act of 1968, *see* 25 U.S.C. 450b, will equalize the treatment accorded to IHA nonmember mortgagees, regardless of whether the IHA is chartered under tribal law or state law. This will permit every IHA nonmember mortgagee that makes mortgage loans to low- and moderate-income members of the Indian community to take advantage of the more flexible collateral rules for securing advances to SHFA nonmember mortgagees provided by section 10b(b) of the Bank Act. *See supra* section I; 12 U.S.C. 1430b(b). The purpose of the proposal is to expand homeownership opportunities for Native Americans by increasing the flow of mortgage credit to Native lands. This is consistent with the goals of the National Homeownership Strategy and the Finance Board's commitments under its National Partners For Homeownership Partnership Agreement.

[1] *Id.* section 1430(a)(1)–(4). Other acceptable real estate related collateral includes, but is not limited to: privately issued mortgage-backed securities other than those eligible under category 1; second mortgage loans, including home equity loans; commercial real estate loans; and mortgage loan participations. *See* 12 CFR 935.9(a)(4)(ii). The aggregate amount of outstanding advances secured by such collateral may not exceed 30 percent of a FHLBank member's GAAP capital. *See* 12 U.S.C. 1430(a)(4); 12 CFR 935.9(a)(4)(iii).

To make certain that the proposed definition of the term ''state housing finance agency'' is as inclusive as possible, the Finance Board solicits comments regarding whether the definition should be expanded to include any groups other than Indian tribes, bands, groups, nations, or communities, and Alaska Native villages, whose sovereign authority is recognized currently by the United States.

B. Advances to the Savings Association Insurance Fund

Proposed § 935.20, which implements section 31(k) of the Bank Act, restates without substantive change the provision that appears currently at § 935.21 of the Finance Board's regulations. *See* 12 U.S.C. 1431(k), 12 CFR 935.21. It provides that a FHLBank may make advances to the Federal Deposit Insurance Corporation for the use of the Savings Association Insurance Fund under certain circumstances and subject to specific conditions.

C. Scope

Proposed § 935.21 provides that advances to nonmember mortgagees generally are subject to subpart A of part 935, which governs advances to FHLBank members. *See* 12 CFR 935.1–935.19. The purpose of this provision is to ensure that nonmember mortgagee advance programs operate within the same regulatory framework as FHLBank member advance programs. The FHLBanks must continue to apply to nonmember mortgagees the advance application requirements, credit underwriting standards, collateral and safekeeping procedures, restrictions on lending to institutions without positive tangible capital, advance maturity requirements, prepayments fees, and most other measures applicable to FHLBank members under subpart A of part 935 and the Finance Board's policy guidelines.

Proposed § 935.21 includes several exceptions to this general requirement. The proposed rule includes the exceptions provided in the current rule as well as an exception to the non-qualified thrift lender (non-QTL) provisions of the Finance Board's advances regulation. *See id.* § 935.13. Since the statutory limit on aggregate FHLBank lending applies only to advances to non-QTL *members, see* 12 U.S.C. 1430(e)(2) (emphasis added), and nonmember mortgagees are not FHLBank members, the Finance Board believes that advances to nonmember mortgagees need not be included in the aggregate limit on advances to non-QTLs.

D. Nonmember Mortgagee Eligibility Requirements

1. In general. Proposed § 935.22(a) restates the current authority of a FHLBank to make advances to an entity that is not a member of the FHLBank if the entity is certified by the FHLBank as a nonmember mortgagee.

Proposed § 935.22(b) incorporates the statutory eligibility requirements for certification as a nonmember mortgagee. In addition to the four statutory eligibility criteria, discussed in section 1 of the *Supplementary Information,* to ensure the safety and soundness of the FHLBanks, the Finance Board has incorporated a financial condition criterion that would require an applicant's financial condition to be such that a FHLBank may safely lend to it. This is the same financial condition criterion that applies currently to applicants for membership in a FHLBank. *See id.* section 1424(a)(2)(B); 12 CFR 933.6(a)(4).

Proposed § 935.22(c) establishes uniform review criteria to be used to determine whether an applicant meets the eligibility requirements for certification as a nonmember mortgagee. The review criteria are based on the standards the Finance Board and FHLBanks apply currently in considering applications for certification as a nonmember mortgagee. The Finance Board specifically requests comments as to whether the regulation should include examples of additional or alternative review criteria.

Under the proposed rule, if an applicant fulfills each criterion to the satisfaction of the FHLBank to which it has applied, it will be deemed to meet the eligibility requirements. Conversely, failure to fulfill each criterion to the satisfaction of the FHLBank will render the applicant ineligible, subject to appeal to the Finance Board, to be certified as a nonmember mortgagee.

Under proposed § 935.22(c)(1), an applicant is deemed to meet the requirement that it be approved under title II of the National Housing Act if it submits a current HUD Yearly Verification Report or other documentation issued by HUD stating that the applicant is an approved FHA mortgagee.

Under proposed § 935.22(c)(2), an applicant is deemed to meet the requirement that it be a chartered institution having succession if it provides documentary evidence satisfactory to the FHLBank that it is a government agency, or is chartered under state, federal, local, tribal, or Alaska Native village law as a corporation or other entity that has rights, characteristics, and powers similar to those granted a corporation. Acceptable documentary evidence generally consists of a copy of the statute(s) and/or regulation(s) under which the applicant was created.

Under proposed § 935.22(c)(3), an applicant is deemed to meet the requirement that it be subject to the inspection and supervision of some governmental agency if it provides documentary evidence satisfactory to the FHLBank that, pursuant to statute or regulation, it is subject to the inspection and supervision of a federal, state, local, tribal, or Alaska Native village government agency. To afford flexibility, the proposed rule provides that inspection by a government agency includes, but is not limited to, a statutory or regulatory requirement that the applicant's books and records be audited or examined periodically by such agency or an external auditor. Supervision by a government agency includes, but is not limited to, statutory or regulatory authority for such agency to remove an applicant's officers or directors for malfeasance or misfeasance. Copies of the relevant statutory and/or regulatory provisions should constitute adequate documentary evidence.

Under proposed § 935.22(c)(4), an applicant is deemed to meet the mortgage activity requirement if it provides documentary evidence satisfactory to the FHLBank that it lends its own funds as its principal activity in the mortgage field. For purposes of this requirement, the Finance Board considers the purchase of whole mortgage loans tantamount to ''lending'' an applicant's funds. In the case of a federal, state, local, tribal, or Alaska Native village government agency, the Finance Board considers appropriated funds to be an applicant's ''own funds.'' An applicant will be deemed to satisfy this requirement even though the majority of its operations are unrelated to mortgage lending if its mortgage activity conforms to the regulatory criteria. A financial statement that includes mortgage loan assets and their funding liabilities generally will provide adequate documentary evidence. The proposed rule provides that an applicant that acts principally as a broker for others making mortgage loans, or whose principal activity is to make mortgage loans for the account of others, does not meet this requirement.

Under proposed § 935.22(c)(5), an applicant that provides such financial or other information as the FHLBank may require to determine that advances may

be extended safely to the applicant is deemed to meet the financial condition requirement in § 935.22(b)(5) of the proposed rule. This requirement is not intended to replace, or be a substitute for, the in-depth financial review a FHLBank should undertake before making specific lending decisions. Nor is it meant to be a presumption that any applicant with eligible collateral is in adequate financial condition.

2. State housing finance agencies. Under § 935.22(d) of the proposed rule, any applicant seeking to take advantage of the more flexible collateral requirements provided by section 10b(b) of the Bank Act and § 935.24(b)(2) of the proposed rule for advances used to facilitate residential or commercial mortgage lending to certain low- and moderate-income families or individuals, in addition to meeting the requirements in proposed § 935.22(b), must provide documentary evidence satisfactory to the FHLBank that it is a SHFA. The proposed definition of the term ''state housing finance agency'' is discussed in section II(A) of the Supplementary Information. Satisfactory documentary evidence generally consists of a copy of the statutory and/or regulatory provisions that outline the applicant's structure and responsibilities.

E. Nonmember Mortgagee Application Process

The Finance Board and the FHLBanks have been considering ways to transfer a variety of management and governance responsibilities from the Finance Board to the FHLBanks since the completion of studies required by the Housing and Community Development Act of 1992, including the Finance Board's own study completed in April 1993. See Pub. L. 102–550, § 1393, 106 Stat. 3672; Report on the Structure and Role of the FHLBank System at 153 (Apr. 28, 1993). The Finance Board, which believes that the FHLBanks should be allowed broad discretion to manage their affairs as long as they comply with the Bank Act and Finance Board regulations, has identified nonmember mortgagee application approval as one of the management functions that should be devolved from the Finance Board to the FHLBanks. Accordingly, § 935.23(a) of the proposed rule authorizes the FHLBanks to approve or deny all applications for certification as a nonmember mortgagee, subject to the requirements of the Bank Act and Finance Board regulations.

The remainder of proposed § 935.23 sets forth the procedures for submission and review of nonmember mortgagee applications. Proposed § 935.23(b) requires an applicant to submit an application that satisfies the requirements of this subpart to the FHLBank of the district in which the applicant's principal place of business, as defined in 12 CFR 933.18, is located.

To ensure expeditious action on applications for certification as a nonmember mortgagee, proposed § 935.23(c)(1) requires a FHLBank to act on an application within 60 calendar days of the date the FHLBank deems the application complete. To make certain that the time period provided for review is not unduly restrictive, the proposed rule deems an application complete, thus triggering the 60-day time period, only after the FHLBank has obtained all of the information required by this subpart and any other information it considers necessary to process the application. The proposed rule also permits the FHLBank to stop the 60-day period if it determines during the review process that additional information is necessary to process the application. The FHLBank must restart the 60-day time period where it left off upon receiving the additional required information. The FHLBank must notify applicants in writing when the 60-day time period begins, stops, and starts again.

Proposed § 935.23(c)(2) requires the board of directors of a FHLBank to approve or deny each application for certification as a nonmember mortgagee by a written decision resolution that states the grounds for the decision. A FHLBank must provide a copy of the decision resolution to the applicant and the Finance Board within 3 business days of the FHLBank's decision on an application.

Proposed § 935.23(c)(3) establishes a process by which applicants may appeal FHLBank certification denials to the Finance Board. The appeal procedure is intended to ensure that the nonmember mortgagee certification criteria are applied uniformly and fairly by the FHLBanks and that similarly situated applicants are treated in a consistent manner. Within 90 calendar days of the date of a FHLBank's certification denial, an applicant may submit a written appeal to the Finance Board with a copy to the FHLBank. The appeal must include the FHLBank's decision resolution and a statement of the basis for the appeal with sufficient facts, information, analysis, and explanation to support the applicant's position. The FHLBank whose action has been appealed must submit to the Finance Board a complete copy of the applicant's application for certification as a nonmember mortgagee as well as any relevant new materials it receives while the appeal is pending. The proposed rule authorizes the Finance Board to request any additional information or supporting arguments it may require to decide the appeal. The Finance Board must make its decision within 90 calendar days of the date the appeal is filed by the applicant.

F. Advances to Nonmember Mortgagees

Proposed § 935.24 establishes the terms and conditions under which a FHLBank may make advances to a nonmember mortgagee. Under proposed § 935.24(a), a FHLBank may lend only to a nonmember mortgagee whose principal place of business is located in the FHLBank's district.

Proposed § 935.24(b) sets forth the collateral requirements for advances to nonmember mortgagees. Pursuant to section 10b(a) of the Bank Act, 12 U.S.C. 1430b(a), and § 935.24(b)(1)(i) of the proposed rule, a FHLBank may make advances to a nonmember mortgagee upon the security of FHA-insured mortgages. Section 935.24(b)(1)(ii) of the proposed rule includes securities representing a whole interest in a pool of FHA-insured mortgages as eligible collateral. If a nonmember mortgagee wishes to pledge such securities, it first must provide to the FHLBank evidence that the securities are backed solely by qualifying mortgages.

As discussed in section 1 of the **SUPPLEMENTARY INFORMATION**, under section 10b(b) of the Bank Act, 12 U.S.C. 1430b(b), advances to a SHFA nonmember mortgagee, the proceeds of which will be used to facilitate mortgage lending that benefits certain low- and moderate-income individuals or families, are subject to less restrictive collateral requirements than those imposed on other advances to nonmember mortgagees. Section 935.24(b)(2) of the proposed rule implements these collateral requirements. Under proposed § 935.24(b)(2), a FHLBank may make such advances upon the security of the collateral described above; collateral eligible under categories 1 or 2 of Bank Act section 10(a), 12 U.S.C. 1430(a)(1)–(2), as described in 12 CFR 935.9(a)(1) or (2); or collateral eligible under category 4 of Bank Act section 10(a), 12 U.S.C. 1430(a)(4), as described in 12 CFR 935.9(a)(4), provided that such collateral is comprised of mortgage loans on one-to-four or multi-family residential property and the acceptance of such collateral will not increase the total amount of advances outstanding to the SHFA secured by such collateral beyond 30 percent of its GAAP capital, as computed by the FHLBank. Since a

FHLBank may accept deposits only from FHLBank members, other FHLBanks, or other instrumentalities of the United States, *see* 12 U.S.C. 1431(e)(1), SHFA nonmember mortgagees would not have any category 3 collateral available to secure FHLBank advances. If a SHFA nonmember mortgagee wishes to pledge other than FHA-insured collateral, it first must certify in writing to the FHLBank that the proceeds of the advance so secured will be used to facilitate qualifying mortgage lending. The proposed rule clarifies that qualifying mortgage lending includes both residential and commercial mortgage lending.

Proposed § 935.24(c) outlines the terms and conditions for advances to nonmember mortgagees. Under proposed § 935.24(c)(1), a FHLBank may exercise its discretion to determine whether, and on what terms, it will make advances to nonmember mortgagees. Proposed § 935.24(c)(2) addresses advance pricing. Paragraph (c)(2)(i) requires a FHLBank to price nonmember mortgagee advances to cover the funding, operating, and administrative costs associated with making the advance. Paragraph (c)(2)(ii) permits, but does not require, a FHLBank to price advances to reflect the credit risk of lending to nonmember mortgagees. Paragraph (c)(2)(iii) authorizes a FHLBank to apply other reasonable differential pricing criteria, provided that the FHLBank applies the criteria equally to all of its member and nonmember mortgagee borrowers. This is intended to ensure that any pricing criteria other than cost and credit risk are applied to nonmember mortgagee advances in the same way as to member advances. The Finance Board requests public comments concerning whether, and on what basis, any pricing distinctions should be permitted between member and nonmember borrowers.

The Finance Board proposes to delete the requirement that appears currently in § 935.22(e)(2)(B)(ii) that a FHLBank price nonmember mortgagee advances to compensate the FHLBank for the lack of a capital stock investment in the FHLBank by the nonmember mortgagee. *See* 12 CFR 935.22(e)(2)(B)(ii). The Finance Board believes that requiring such compensation is unnecessary since the additional earnings achieved through advances not supported by capital should enhance a FHLBank's return on equity.

Proposed § 935.24(c)(3) limits the principal amount of any advance made to a nonmember mortgagee to 90 percent of the unpaid principal of the mortgage loans or securities pledged as security for the advance. This limit does not apply to advances made to SHFA nonmember mortgagees for the purpose of facilitating qualifying low- and moderate-income mortgage lending under § 935.24(b)(2) of the proposed rule.

Under certain circumstances an entity that has been certified as a nonmember mortgagee may be deemed ineligible to receive FHLBank advances. Section 935.24(d)(1) of the proposed rule requires a nonmember mortgagee that applies for an advance to agree first in writing that it will promptly notify the FHLBank of any change in its status as a nonmember mortgagee. Section 935.24(d)(2) of the proposed rule permits a FHLBank, from time to time, to require a nonmember mortgagee to provide evidence that it continues to satisfy all of the statutory and regulatory eligibility requirements. If the FHLBank determines that the nonmember mortgagee no longer meets these eligibility requirements, proposed § 935.24(d)(3) prohibits the FHLBank from extending a new advance or renewing an existing advance until the entity provides evidence satisfactory to the FHLBank that it is in compliance with such requirements.

III. Regulatory Flexibility Act

The proposed rule implements statutory requirements binding on all FHLBanks and all nonmember mortgagee applicants and certified nonmember mortgagees. The Finance Board is not at liberty to make adjustments in those requirements to accommodate small entities. The Finance Board has not imposed any additional regulatory requirements that will have a disproportionate impact on small entities. Thus, in accordance with the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, the Board of Directors of the Finance Board hereby certifies that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. *Id*. section 605(b).

IV. Paperwork Reduction Act

The Finance Board has submitted to the Office of Management and Budget (OMB) an analysis of the collection of information contained in §§ 935.22 through 935.24 of the proposed rule, described more fully in part II of the *Supplementary Information*. The FHLBanks and, where appropriate, the Finance Board, will use the information collection to determine whether an entity satisfies the statutory and regulatory eligibility requirements to be certified as a nonmember mortgagee eligible to receive FHLBank advances. *See* 12 U.S.C. 1430b; 12 CFR 935.21–935.24. A FHLBank may make advances to an entity that is not a member of the FHLBank only after the entity has satisfied the eligibility requirements to be a nonmember mortgagee. *See* 12 U.S.C. 1430b. Responses are required to obtain or retain a benefit. *See id*. The Finance Board and FHLBanks will maintain the confidentiality of information obtained from respondents pursuant to the collection of information as required by applicable statute, regulation and agency policy. Books or records relating to these collection of information must be retained as provided in the regulation or proposed rule.

Likely respondents and/or recordkeepers will be entities, including SHFAs and IHAs, that seek access to FHLBank advances but are not eligible to become members of a FHLBank, the FHLBanks, and the Finance Board. Potential respondents are not required to respond to the collection of information unless the regulation collecting the information displays a currently valid control number assigned by the OMB. *See* 44 U.S.C. 3512(a).

The estimated annual reporting and recordkeeping hour burden is:

a. Number of respondents: 10
b. Total annual responses: 10
   Percentage of these responses collected electronically: 0%
c. Total annual hours requested: 100
d. Current OMB inventory: 100
e. Difference: 0

The estimated annual reporting and recordkeeping cost burden is:

a. Total annualized capital/startup costs: $0
b. Total annual costs (O&M): $0
c. Total annualized cost requested: $6,250
d. Current OMB inventory: $6,250
e. Difference: $0

Comments concerning the accuracy of the burden estimates and suggestions for reducing the burden may be submitted to the Finance Board in writing at the address listed above.

The Finance Board has submitted the collection of information to OMB for review in accordance with section 3507(d) of the Paperwork Reduction Act of 1995, codified at 44 U.S.C. 3507(d). Comments regarding the proposed collection of information may be submitted in writing to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Federal Housing Finance Board, Washington, D.C. 20503 by December 9, 1996.

List of Subjects in 12 CFR Part 935

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

Accordingly, the Board of Directors of the Federal Housing Finance Board hereby proposes to amend part 935, chapter IX, title 12, Code of Federal Regulations, as follows:

PART 935—ADVANCES

1. The authority citation for part 935 is revised to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1430b, and 1431.

2. Section 935.1 is amended by revising the definition for ''State housing finance agency'' to read as follows:

§ 935.1 Definitions.

* * * * *

State housing finance agency or *SHFA* means:

(1) A public agency, authority, or publicly sponsored corporation that serves as an instrumentality of any state or political subdivision of any state, and functions as a source of residential mortgage loan financing in that state; or

(2) A legally established agency, authority, corporation, or organization that serves as an instrumentality of any Indian tribe, band, group, nation, community, or Alaska Native village recognized by the United States or any state, and functions as a source of residential mortgage loan financing for the Indian or Alaska Native community.

* * * * *

3. Subpart B is revised to read as follows:

Subpart B—Advances to Nonmembers

Sec.

Subpart B—Advances to Nonmembers

§ 935.20 Advances to the Savings Association Insurance Fund.

(a) *Authority*. Upon receipt of a written request from the FDIC, a Bank may make advances to the FDIC for the use of the Savings Association Insurance Fund. The Bank shall provide a copy of such request to the Board.

(b) *Requirements*. Advances to the FDIC for the use of the Savings Association Insurance Fund shall:

(1) Bear a rate of interest not less than the Bank's marginal cost of funds, taking into account the maturities involved and reasonable administrative costs;

(2) Have a maturity acceptable to the Bank;

(3) Be subject to any prepayment, commitment, or other appropriate fees of the Bank; and

(4) Be adequately secured by collateral acceptable to the Bank.

§ 935.21 Scope.

With the exception of § 935.13, and except as otherwise provided in § 935.20 and § 935.24, the requirements of subpart A of this part apply to this subpart.

§ 935.22 Nonmember mortgagee eligibility requirements.

(a) *Authority.* Subject to the provisions of the Act and this subpart, a Bank may make advances to an entity that is not a member of the Bank if the entity is certified by the Bank as a nonmember mortgagee.

(b) *Eligibility requirements.* A Bank may certify as a nonmember mortgagee any applicant that meets the following requirements:

(1) The applicant is approved under title II of the National Housing Act (12 U.S.C. 1707, et seq.);

(2) The applicant is a chartered institution having succession;

(3) The applicant is subject to the inspection and supervision of some governmental agency;

(4) The principal activity of the applicant in the mortgage field consists of lending its own funds; and

(5) The financial condition of the applicant is such that advances may be safely made to it.

(c) *Satisfaction of eligibility requirements.*

(1) *HUD approval requirement.* An applicant shall be deemed to meet the requirement in section 10b(a) of the Act and paragraph (b)(1) of this section that it be approved under title II of the National Housing Act if it submits a current HUD Yearly Verification Report or other documentation issued by HUD stating that the applicant has been approved as a mortgagee by the Federal Housing Administration of HUD.

(2) *Charter requirement.* An applicant shall be deemed to meet the requirement in section 10b(a) of the Act and paragraph (b)(2) of this section that it be a chartered institution having succession if it provides documentary evidence satisfactory to the Bank, such as a copy of the statutes and/or regulations under which the applicant was created, that:

(i) The applicant is a government agency; or

(ii) The applicant is chartered under state, federal, local, or tribal law as a corporation or other entity that has rights, characteristics, and powers under applicable law similar to those granted a corporation.

(3) *Inspection and supervision requirement.* An applicant shall be deemed to meet the inspection and supervision requirement in section 10b(a) of the Act and paragraph (b)(3) of this section if it provides documentary evidence satisfactory to the Bank, such as a copy of relevant statutes and/or regulations, that, pursuant to statute or regulation, the applicant is subject to the inspection and supervision of a federal, state, local, tribal, or Alaskan native village government agency. Inspection by a government agency includes, but is not limited to, a statutory or regulatory requirement that the applicant be audited or examined periodically by such agency or by an external auditor. Supervision by a government agency includes, but is not limited to, statutory or regulatory authority for such agency to remove an applicant's officers or directors for cause.

(4) *Mortgage activity requirement.* An applicant shall be deemed to meet the mortgage activity requirement in section 10b(a) of the Act and paragraph (b)(4) of this section if it provides documentary evidence satisfactory to the Bank, such as a financial statement or other financial documents that include the applicant's mortgage loan assets and their funding liabilities, that it lend its own funds as its principal activity in the mortgage field. Lending funds includes, but is not limited to, the purchase of whole mortgage loans. In the case of a federal, state, local, tribal, or Alaska Native village government agency, appropriated funds shall be considered an applicant's own funds. An applicant shall be deemed to satisfy this requirement notwithstanding that the majority of its operations are unrelated to mortgage lending if its mortgage activity conforms to this requirement. An applicant that acts principally as a broker for others making mortgage loans, or whose principal activity is to make mortgage loans for the account of others, does not meet this requirement.

(5) *Financial condition requirement.* An applicant shall be deemed to meet the financial condition requirement in paragraph (b)(5) of this section if it provides such financial or other information as the Bank may require to determine that advances may be safely made to the applicant.

(d) *State housing finance agencies.* In addition to meeting the requirements in paragraph (b) of this section, any

applicant that seeks access to advances as a SHFA pursuant to § 935.24(b)(2) shall provide documentary evidence satisfactory to the Bank, such as a copy of the statutes and/or regulations that describe the applicant's structure and responsibilities, that the applicant is a state housing finance agency as defined in § 935.1.

(e) *Ineligibility.* Except as otherwise provided in this subpart, if an applicant does not satisfy the requirements of this subpart, the applicant is ineligible to be certified as a nonmember mortgagee.

§ 935.23 Nonmember mortgagee application process.

(a) *Authority.* The Banks are authorized to approve or deny all applications for certification as a nonmember mortgagee, subject to the requirements of the Act and this subpart.

(b) *Application requirements.* An applicant for certification as a nonmember mortgagee shall submit an application that satisfies the requirements of this subpart to the Bank of the district in which the applicant's principal place of business, as defined in part 933 of this chapter, is located.

(c) *Application process*—(1) *Action on applications.* A Bank shall approve or deny an application for certification as a nonmember mortgagee within 60 calendar days of the date the Bank deems the application to be complete. A Bank shall deem an application complete, and so notify the applicant in writing, when it has obtained all of the information required by this subpart and any other information it deems necessary to process the application. If a Bank determines during the review process that additional information is necessary to process the application, the Bank may deem the application incomplete and stop the 60-day time period by providing written notice to the applicant. When the Bank receives the additional information, it shall again deem the application complete, so notify the applicant in writing, and resume the 60-day time period where it left off.

(2) *Decision on applications.* The board of directors of a Bank shall approve or deny each application for certification as a nonmember mortgagee by a written decision resolution stating the grounds for the decision. Within 3 business days of a Bank's decision on an application, the Bank shall provide the applicant and the Board's Executive Secretary with a copy of the Bank's decision resolution.

(3) *Appeals.* Within 90 calendar days of the date of a Bank's decision to deny an application for certification as a nonmember mortgagee, the applicant may submit a written appeal to the Board that includes the Bank's decision resolution and a statement of the basis for the appeal with sufficient facts, information, analysis, and explanation to support the applicant's position. Appeals shall be sent to the Executive Secretary, Federal Housing Finance Board, 1777 F Street, N.W., Washington D.C. 20006, with a copy to the Bank.

(i) *Record for appeal.* Upon receiving a copy of an appeal, the Bank whose action has been appealed shall provide to the Board a complete copy of the applicant's application for certification as a nonmember mortgagee. Until the Board resolves the appeal, the Bank shall promptly provide to the Board any relevant new materials it receives. The Board may request additional information or further supporting arguments from the applicant, the Bank, or any other party that the Board deems appropriate.

(ii) *Deciding appeals.* Within 90 calendar days of the date an applicant files an appeal with the Board, the Board shall consider the record for appeal described in paragraph (c)(3)(i) of this section and resolve the appeal based on the requirements of the Act and this subpart.

§ 935.24 Advances to nonmember mortgagees.

(a) *Authority.* Subject to the provisions of the Act and this subpart, a Bank may make advances only to a nonmember mortgagee whose principal place of business, as defined in part 933 of this chapter, is located in the Bank's district.

(b) *Collateral requirements*—(1) *Advances to nonmember mortgagees.* A Bank may make an advance to any nonmember mortgagee upon the security of the following collateral:

(i) Mortgage loans insured by the Federal Housing Administration of HUD under title II of the National Housing Act; or

(ii) Securities representing an interest in the principal and interest payments due on a pool of mortgage loans insured by the Federal Housing Administration of HUD under title II of the National Housing Act. A Bank may only accept as collateral the securities described in this paragraph if the nonmember mortgagee provides evidence that such securities are backed solely by mortgages of the type described in paragraph (b)(1)(i) of this section.

(2) *Certain advances to SHFAs.* (i) In addition to the collateral described in paragraph (b)(1) of this section, a Bank may make an advance to a nonmember mortgagee that has satisfied the requirements of § 935.22(d) for the purpose of facilitating residential or commercial mortgage lending that benefits individuals or families meeting the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code (26 U.S.C. 142(d) or 143(f)) upon the security of the following collateral:

(A) The collateral described in § 935.9(a)(1) or (2); or

(B) The real estate-related collateral described in § 935.9(a)(4), provided that such collateral is comprised of mortgage loans on one-to-four family or multifamily residential property and the acceptance of such collateral will not increase the total amount of advances outstanding to the SHFA secured by such collateral beyond 30 percent of its GAAP capital, as computed by the Bank.

(ii) Prior to making an advance pursuant to this paragraph (b)(2), a Bank shall obtain a written certification from the SHFA that the proceeds of the advance shall be used for the purposes described in paragraph (b)(2)(i) of this section.

(c) *Terms and conditions*—(1) *General.* Subject to the provisions of this paragraph (c), a Bank, in its discretion, shall determine whether, and on what terms, it will make advances to a nonmember mortgagee.

(2) *Advance pricing.* Each Bank making an advance to a nonmember mortgagee:

(i) Shall price the advance to cover the funding, operating, and administrative costs associated with making the advance;

(ii) May price the advance to reflect the credit risk of lending to the nonmember mortgagee; and

(iii) May apply other reasonable differential pricing criteria, provided that the Bank applies such pricing criteria equally to all of its member and nonmember mortgagee borrowers.

(3) *Limit on advances.* The principal amount of any advance made to a nonmember mortgagee may not exceed 90 percent of the unpaid principal of the mortgage loans or securities pledged as security for the advance. This limit does not apply to an advance made to a SHFA under paragraph (b)(2) of this section.

(d) *Loss of eligibility*—(1) *Notification of status changes.* A Bank shall require a nonmember mortgagee that applies for an advance to agree in writing that it will promptly inform the Bank of any change in its status as a nonmember mortgagee.

(2) *Verification of eligibility.* A Bank may, from time to time, require a nonmember mortgagee to provide evidence that it continues to satisfy all

of the eligibility requirements of the Act and this subpart.

(3) *Loss of eligibility.* A Bank shall not extend a new advance or renew an existing advance to a nonmember mortgagee that no longer meets the eligibility requirements of the Act and this subpart until the entity has provided evidence satisfactory to the Bank that it is in compliance with such requirements.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairperson.

[FR Doc. 96–25663 Filed 10–7–96; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWP–3]

Proposed Establishment of Class E Airspace; Grand Canyon-Valle Airport, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace area at Grand Canyon-Valle Airport, AZ. The development of a VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 19 and a Global Positioning System (GPS) SIAP to RWY 01/19 at Grand Canyon-Valle Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Grand Canyon-Valle Airport, AZ.

DATES: Comments must be received on or before October 21, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 95–AWP–3, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Operations Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AWP–3.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Operations Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 112–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace area at Grand Canyon-Valle Airport, AZ. The development of a VOR/DME and GPS SIAP at Grand Canyon-Valle Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the VOR/DME RWY 19 and GPS RWY 01/19 SIAP at Grand Canyon-Valle Airport, AZ. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.09D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP AZ E5 Grand Canyon-Valle Airport, AZ [New]

Grand Canyon-Valle Airport, AZ
(Lat. 35°39′03″N, long. 112°08′47″W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Valle Airport and within 1.4 miles each side of the 021° bearing from the Valle Airport extending from the 6.4-mile radius of the Valle Airport to 8 miles northwest of the Valle Airport and within 2 miles each side of the 201° bearing from the Valle Airport extending from the 6.4-mile radius of the Valle Airport to 10 miles southwest of the Valle Airport. That airspace extending upward from 1200 feet above the surface bounded by a line beginning at lat. 35°42′00″N, long. 112°00′03″W; lat. 35°18′30″N, long. 112°00′03″W; lat. 35°24′00″N, long. 112°21′00″W; lat. 35°34′00″N, long. 112°20′30″W; lat. 35°38′00″N, long. 112°17′00″W; lat. 35°38′00″N, long. 112°07′00″n, long. 112°07′03″W; lat. 35°42′00″N, long. 112°07′03″W, thence to the point of beginning.

* * * * *

Issued in Los Angeles, California on September 13, 1996

Leonard A. Mobley,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–25414 Filed 10–7–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 202 and 206

RIN 1010–AB57

Meeting on Proposed Rule to Amend Gas Valuation Regulations For Indian Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) will hold a public meeting in Oklahoma City, Oklahoma, to discuss a proposed rulemaking regarding the valuation of natural gas produced from mineral leases on Indian land. The proposal was published in the Federal Register on September 23, 1996, (61 FR 49894). The proposed rule would add alternative valuation methods to the existing regulations and represents the recommendations of the MMS Indian Gas Valuation Negotiated Rulemaking Committee. This proposed rule also contains two new MMS forms and solicits comments on these information collections. Comments on this rule must be submitted to MMS by November 22, 1996. The purpose of the meeting is to explain the proposed changes to the regulations governing the valuation for royalty purposes of natural gas produced from Indian leases and allow all interested parties to discuss the proposed rulemaking. Interested parties are invited to attend and participate at this meeting.

DATES: A public meeting will be held on Wednesday October 23, 1996, from 10 a.m. until 4 p.m.

ADDRESSES: The meeting will be held in the Blue Ridge Room at the Radisson Hotel, 401 South Meridian, Oklahoma City, Oklahoma 73108–1099: telephone (405) 947–7681.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Procedures Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3101, Denver, Colorado 80225–0165, telephone (303) 231–3432, fax number (303) 231–3194, e-Mail David__Guzy@smtp.mms.gov. Please contact Shelly Fields at (303) 231–3631 prior to October 21 if you will be attending this meeting.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public without advance registration. Public attendance may be limited to the space available. The meeting will be organized into two sessions:

MMS presentation of proposed rule—10 a.m.–noon Public commenting on proposed rule—1 p.m.–4 p.m.

Members of the public may make statements during the meeting and are encouraged to file written statements for consideration.

Dated: October 1, 1996.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 96–25670 Filed 10–07–96; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 59

[AD–FRL–5632–3]

National Volatile Organic Compound Emission Standards for Architectural Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The EPA is reopening the public comment period for the proposed National Volatile Organic Emission Standards for Architectural Coatings. As initially published in the Federal Register on June 25, 1996 (61 FR 32729), written comments on the proposed rule were to be submitted to the EPA on or before August 30, 1996 (a 60-day public comment period). On September 3, 1996 the EPA published a notice in the Federal Register (61 FR 46410) announcing an extension of the public comment period until September 30, 1996 (a 90-day public comment period). The public comment period is now being reopened and will end on November 4, 1996 (a 120-day public comment period).

As initially published in the Federal Register on June 25, 1996 (61 FR 32729), the proposed compliance date for the National Volatile Organic Emission Standards for Architectural Coatings was April 1, 1997. This proposed compliance date is being delayed until January 1, 1998 for all regulated entities.

DATES: Comments must be submitted by November 4, 1996.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–92–18, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on diskette in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–92–18. No Confidential Business Information (CBI) should be submitted through e-mail.

Docket. The proposed regulatory text and other materials related to this

rulemaking, excepting any information claimed as CBI, are available for public review. This public record has been established for the rulemaking under Docket No. A–92–18 and contains supporting information used in developing the proposed rule. The docket, including paper versions of electronic comments, is available for public inspection and copying between 8:30 a.m. and 5:30 p.m., Monday through Friday, at the U.S. Environmental Protection Agency Air and Radiation Docket and Information Center (6102), Waterside Mall, Room M1500, 401 M Street, SW, Washington, DC 20460; telephone number (202) 260–7548, FAX (202) 260–4400. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Ducey, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5408.

SUPPLEMENTARY INFORMATION: On June 25, 1996, at 61 FR 32729, the EPA published the proposed National Volatile Organic Compound Emission Standards for Architectural Coatings and provided a 60-day public comment period. Requests were received to extend the public comment period beyond the 60 days originally provided. In consideration of these requests, some of which were from small businesses that will be affected by the rule, the EPA extended the comment period by 30 days (until September 30, 1996), in order to give all interested persons the opportunity to comment fully. Subsequent to this extension, the EPA received requests for additional time beyond the 90 days provided to submit comments. In response to these additional requests for a further extension of the comment period and because an extension of the compliance date is being proposed, the EPA is reopening the comment period until November 4, 1996.

The EPA has received numerous comments suggesting that the proposed compliance date of April 1, 1997 does not provide adequate time for some manufacturers and importers to meet the proposed rule requirements. Although the EPA is proposing requirements similar to those which have been in place for many years in certain areas of the country, some manufacturers who have not marketed into these areas have stated that they need time to complete reformulations, conduct product testing, and make labeling changes. Many of these requests for more compliance lead time have been from small manufacturers. In consideration of these comments, the EPA is proposing an additional nine months of lead time for manufacturers and importers to meet requirements. The proposed compliance date is January 1, 1998. The EPA requests comment on this new compliance date. Comments in support of additional compliance time beyond this date should include detailed information about the types of activities and time frames involved in meeting requirements specific to a manufacturer's particular product lines. In detailing the anticipated timing for compliance with requirements in the proposed rule, the option to obtain a variance for some product lines should be addressed.

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Architectural coatings, Ozone, Volatile organic compound.

Dated: October 2, 1996.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 96–25769 Filed 10–04–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3200, 3210, 3220, 3240, 3250, and 3260

RIN: 1004–AB18

[AA–610–08–4141–02]

Geothermal Resources Leasing and Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations which implement the Geothermal Steam Act of 1970, (Steam Act). This proposed rulemaking addresses leasing, permitting and operational and unitization requirements for geothermal exploration, drilling, and utilization operations. The proposed rulemaking proposes no additional permit requirements. The proposed regulations would put all the geothermal regulations in a plain English format; reduce and streamline permitting and information requirements; provide BLM the maximum possible flexibility regarding permit issuance and thereby accommodate the full range of potential geothermal operations and development scenarios; and reorganize the regulations and provide specific permit application informational requirements to allow more consistent interpretation of requirements by BLM and its industrial customers.

DATES: Any comments must be received by BLM on or before Janaury 6, 1997. Comments received which are postmarked after this date will not necessarily be considered in the decisionmaking process on the final rule.

ADDRESSES: If you wish to comment, you may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC; or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW., Washington, DC 20240. You also may transmit comments electronically via the Internet to WOComment@WO0033wp.wo.blm.gov. Please include ''attn: RIN 1004AB18'' in your message. If you do not receive a confirmation from the system that we have received your internet message, contact us directly during regular business hours. You will be able to review comments at BLM's Regulatory Management Team office, Room 401, 1620 L Street, NW., Washington, DC, during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard Hoops, (702) 785–6568.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written Comments

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment addresses. BLM may not necessarily consider or include in the Administrative Record for the rule comments which BLM receives after the close of the comment period (see ''DATES'') or comments delivered to an address other than those listed above (see ''ADDRESSES'').

II. Background and Discussion of Proposed Rule

This proposed rule would revise 43 CFR parts 3200, 3210, 3220, 3240, 3250, and 3260 which implement the classification, leasing, exploration, drilling, and utilization, requirements of the Geothermal Steam Act of 1970 and the Geothermal Steam Act Amendments of 1988 (the Steam Act). The new rule would eliminate existing parts 3210, 3220, 3240, 3250 and 3260, rewrite corresponding subparts under part 3200, and reorganize the existing regulations so that all permitting requirements and operator responsibilities for each phase of development may be found in a specific subpart. The proposed rule would more clearly delineate the existing permitting and informational requirements.

The existing part 3280, concerning unit agreements, will not be affected by this proposed rule. BLM intends to revise part 3280 in harmony with this general revision of the 3200 regulations, but in a separate rulemaking in the very near future.

Existing parts 3200, 3210, 3220 and 3240 are consolidated and placed in order corresponding to the sequence in which leasing procedures occur. The exploration regulations are moved from subparts 3209 and 3264 and redesignated as subpart 3250. Existing part 3260 is revised to describe only the requirements for drilling operations. The existing part 3250, Site License, and the existing portions of part 3260 addressing geothermal resource utilization are revised and redesignated as subpart 3270, Utilization of Geothermal Resources.

The following table lists how each subpart is reorganized:

Current regulations	Proposed regulations
3200—Geothermal Resources Leasing: General	3200—Geothermal Resources Leasing.
3201—Available Lands; Limitations; Unit Agreements	3201—Available Lands.
3202—Qualifications of Lessees	3202—Qualifications of Lessees.
3203—Leasing Terms	3206—Lease Issuance.
	3207—Additional Lease Term.
	3208—Extended Lease Term.
	3209—Additional Lease Information.
3204—Surface Management Requirements	[deleted].
3205—Fees, Rentals and Royalties	3210—Fees, Rentals and Royalties.
3206—Lease Bonds	3213—Personal and Surety Bonds.
	3214—Bonding and Lease Operations.
	3215—Certificate of Deposit and Letter of Credit.
	3216—Bond Collection After Default.
3207—Leases for a Fractional or Future Interest	3206—Lease Issuance.
3208—(Reserved)	
3209—Geothermal Resources Exploration Operations	3250—Geothermal Exploration.
3210—Noncompetitive Leases: General	3204—Noncompetitive Leasing.
3220—Competitive Leases: General	3205—Competitive Leasing.
3241—Transfers	3217—Transfers, Interest and Qualifications.
	3218—Requirements for Filing Transfers.
3242—Production and Use of Byproducts	3272—The Contents and Review of a Plan of Utilization.
3243—Cooperative Conservation Provisions	3219—Cooperative Conservation Provisions.
3244—Terminations and Expirations	3212—Relinquishment, Termination, Cancellation, and Expiration.
3250—Utilization of Geothermal Resources	3273—Applying for and Obtaining a Site License.
	3274—Joint utilization Agreements.
3260—Geothermal Resources Operations: General	3260—Geothermal Drilling Operation—General.
	3270—Utilization of Geothermal Resources General.
3261—Jurisdiction and Responsibility	3260—Geothermal Drilling Operation—General.
	3262—Conducting Drilling Operations.
	3263—Well Abandonment.
	3270—Utilization of Geothermal Resources General.
3262—Requirements for Operating Rights Owners	3261—Permitting (drilling).
	3262—Conducting Drilling Operations.
	3271—Permitting Utilization Operations.
	3272—Contents and Review of a Plan of Utilization.
	3276—Conducting Utilization Operations.
3263—Measurement of Production	3276—Conducting Utilization Operations.
3264—Reports to be Made by All Lessees	3261—Permitting (drilling).
	3266—Reports (drilling).
	3274—Submitting a Utilization Permit.
	3275—Submitting a Production Permit.
3265—Procedure in Case of Violation of the Regulations	3268—Inspection, Enforcement, and Noncompliance (drilling).
	3277—Inspection, Enforcement, and Noncompliance (utilization).
3266—Appeals	3255—Relief and Appeals (exploration).
	3269—Relief and Appeals (drilling).
	3278—Relief and Appeals (utilization).

Parts 3200—Geothermal Resources Leasing: General, 3210 Noncompetitive Leases, 3220—Competitive Leases, and 3240 Rules Governing Leasing

Firstly, the new rule would restructure the definitions section, retaining many of the existing terms but also removing several technical terms (such as ''the Secretary'' and ''the Service'') which no longer fit within the plain English style, and adding new terms (such as ''MMS'') which play a significant role in the new rule. Furthermore, some existing terms which have narrow applicability, such as ''significant thermal features within units of the National Park System'' would be relocated to the specific

sections to which they apply. To this extent, the new definitions section contains only terms which are used repeatedly throughout the regulations. Also, the definition of commercial quantities is expanded to address the difference between commercial quantities of individual lease and unit production. Finally, the terms would be alphabetized, and the designations markers (a), (b), (c) and so forth, removed, in keeping with Federal Register guidance.

Next, the section describing lands subject to geothermal leasing would be condensed and rewritten into 43 CFR 3201.10. Nothing in the new section alters what lands are available for geothermal leasing; rather, this section would just be streamlined and rewritten into plain English. Subpart 3202 would contain the qualifications for a lessee which, likewise, are intended to retain all substantive provisions from the existing regulations, streamlined and rewritten into plain English.

The proposed rule would completely restructure existing regulations concerning the general leasing processes. Firstly, proposed subpart 3203 would introduce the term Known Geothermal Resource Area (KGRA) and briefly describes how this designation determines whether an area can be leased through noncompetitive bidding or solely through the competitive bidding process. Subpart 3204 would then revise the manner in which noncompetitive leases become available. BLM will no longer prepare an availability list of relinquished or terminated leases; instead, lands will become available for noncompetitive leasing as soon as BLM closes each case. An offeror could apply for these lands at any time, and instead of collecting applications in one-month application periods, BLM would open each application upon submission and immediately begin processing.

This new process would substantially improve the way BLM handles noncompetitive lease applications. By eliminating the one-month delay, BLM would create a rolling application review process which would approve or deny an application much sooner than under the current process. BLM could determine at any time prior to issuing the lease that the land is a known geothermal resource area (KGRA), either as a result of overlapping applications for the same land or due to evidence indicating threshold geothermal activity (see the definition in 43 CFR 3203.11); which would mean that the area is subject to competitive leasing. Otherwise, once BLM approves a noncompetitive lease application, no KGRA designation would apply and any later overlapping applications would be rejected.

If overlapping applications were filed prior to approval of the first application, this competitive interest would prompt BLM to examine the land for further evidence that might warrant a KGRA designation. If the designation were approved, all noncompetitive applications would be rejected and the lands would be made available under the competitive leasing provisions. If no KGRA designation were warranted, then the lease would be offered to the first qualified applicant, *i.e.*, the first person to submit an application which meets all requirements.

Under the proposed regulations BLM would continue to issue competitive leases as in the past, relying on published notices of available lands and a sealed bidding process. The regulations for competitive leasing would be relocated to subpart 3205, condensed and written into plain English. BLM would make no substantive changes to the manner in which we review applications, select the winning bid, notify the successful bidder, issue the lease, revoke offers when the successful bidder fails to respond, and so forth.

Most of the leasing terms at subpart 3203 of the existing regulations would be retained in condensed, plain English form in proposed subparts 3206 through 3210. However, some substantive and organizational changes are proposed. For example, BLM would change the requirements for diligent exploration under a lease. The current regulation (43 CFR 3203.5) requires that diligent exploration occur during lease years 11 through 15, but BLM proposes to remove this requirement since these lease years are not part of the primary period. Rather, the new regulations add a requirement at 43 CFR 3208.10(a) that a lease be extended due to diligent drilling over the end of the primary period. To qualify, the operator must diligently strive to reach a reasonable drilling target, which BLM will define based on local geology and the type of development proposed by the operator.

Under 43 CFR 3208.10 (b) and (c) of the proposed regulations leases would be eligible for extensions in two new, additional situations:(1) when committed to a unit, lease terms expiring prior to the unit could be extended to match the unit terms as long as diligent unit development is occurring; and (2) any lease not part of a participating area is eligible for two successive five-year extensions when it is eliminated from a unit by contraction or unit review. These extensions address industry concerns that leases adjacent to producing areas may be terminated, regardless of diligence, due to the lack of electrical sales contracts or poor energy market lasting for extended periods.

The proposed rule would enact a few other minor substantive changes to lease terms. For example, BLM would delete the special requirements at 43 CFR 3203.4(d) for describing unsurveyed public lands adjacent to tidal waters in southern Louisiana and in Alaska, since this part is rarely used, and since the general regulations for describing unsurveyed lands are adequate. Several other portions of existing subpart 3203 have been merged into other sections: section 3203.6, concerning plans of development and operation, has been incorporated into various sections within new subparts 3260 and 3270; 43 CFR 3203.7, concerning oil, gas and helium reservations, is covered by 43 CFR 3210.17. The 43 CFR 3203.1–6 concerning converting leases to a mineral lease would be relocated to 43 CFR 3209.10.

The provisions on fees, rentals and royalties in subpart 3205 would be replaced by subpart 3211 in streamlined, plain English form. Except as noted, BLM does not intend to change any of these existing substantive provisions, but merely to make the existing ones more readily understood by the public, and more manageable for BLM. The only notable change is that the existing provision at 43 CFR 3205.3–7(a), concerning waivers and suspensions of payments, would be relocated to 43 CFR 3212.14, grouping it with the regulations on suspension of operations or operations and production leases. Finally, subparts 3206–Lease Bonds, 3207—Leases for a Fractional or Future Interest, and 3209–Geothermal Resources Exploration Operations would be relocated to, respectively, subparts 3214, 3206, and 3250. In each case, except as otherwise discussed in this preamble, the changes enacted by the proposed regulation would be limited to consolidation and plain English rewrites.

Part 3250—Utilization of Geothermal Resources

In order to separate operational regulations from the leasing provisions, the geothermal resources utilization regulations currently found in part 3250 would be relocated to subpart 3270, and the new subpart 3250 would contain the geophysical exploration operation regulations currently found in subpart 3209. The permitting and operational responsibilities for geophysical exploration operations occurring on either unleased public lands, Indian

lands, or lands leased for geothermal resources activities conducted by a lessee or permittee are consolidated here into a single set of standards. An exploration permit application would consist of the permit form and any operational and environmental information necessary for BLM to provide a timely review and decision.

These flexible informational requirements would adequately cover the level of detail necessary to provide sufficient information for applications to drill shallow temperature gradient wells (up to 500 feet deep), temperature gradient wells (with depths of 4000 feet or more), or any exploratory drilling in areas of increased environmental concern. Currently, Geothermal Resources Operational Order 1 limits the depth of temperature gradient wells to 500 feet unless BLM grants specific authorization to drill deeper, but the proposed regulations at 43 CFR 3252.30 will allow an operator to propose a temperature gradient well to any depth necessary to adequately measure temperature gradients. Sections would be added for inspection, enforcement and noncompliance, and appeals, and the current exploration bond requirements would be retained.

Part 3260—Geothermal Resource Operations: General

In order to consolidate drilling operations regulations in one location, subpart 3260 as proposed would address only the drilling permit application, approval, and reporting requirements. Regulations addressing permits for utilization facilities and information requirements related to the utilization of geothermal resources would be moved to a new subpart 3270. To address concerns often expressed by the public as well as other regulatory agencies, the Jurisdiction and Responsibility section (current subpart 3261) would be amended to clarify BLM's existing authority to take post-permit actions, such as requiring modifications to or shutting down operations that are in noncompliance or pose an immediate threat to the public, the environment or private property.

Under proposed subpart 3260, a drilling application would consist of a plan of operation, geothermal drilling permit and drilling program, and all three documents could be submitted for review simultaneously. The plan of operation information requirements would be reduced to cover only specific drilling activities, eliminating the current requirement that applicants also address resource utilization. The plan of operation and drilling program could be written to apply to more than one well, though separate geothermal drilling permits would be required for each proposed well. Pad construction could commence once BLM approved the plan of operation or a sundry notice specifically requesting authorization for the site construction, while the drilling program and geothermal drilling permit could be submitted later. The well location plat, as currently required, would need to be certified by a licensed surveyor.

A geothermal sundry notice would be necessary for actions such as casing program changes, well stimulation, or plugging and abandoning a well, but BLM could waive the sundry notice requirement for specific routine well work, surveys, or downhole maintenance. For activities that would result in an environmental impact not already described in the plan of operation, the applicant would be required to submit a geothermal sundry notice to amend the plan of operation, which would result in subsequent environmental review.

These permit review options would provide both BLM and resource users the maximum flexibility and the best opportunity to address the broad range of operational and environmental issues encountered during geothermal development. BLM would be able, as a result, to respond to industry requests more efficiently and ensure all environmental requirements are met.

Several other sections have been modified to improve the way in which BLM oversees existing operations. In new 43 CFR 3266.50, BLM would reduce the current requirements of notification or reports for all accidents occurring on federal lands (current 43 CFR 3262.7) to require notification and reports only when the accident affects operations or causes environmental hazards. Per the authority under section 5 of the lease terms, BLM can conduct inspections to ensure compliance with the permit, lease terms, regulations and the Steam Act. When the lessee submits information it regards as confidential, it would be clearly marked with the words ''confidential information,'' although BLM would ultimately determine whether such information is exempt from public disclosure under the Freedom of Information Act regulations set forth in 43 CFR part 2.

The noncompliance subsection is revised to more clearly define what BLM can do when an operator fails to promptly commence or complete a required remedial action. This would include modification of project operations, temporary or permanent shut down of operations, or lease termination.

Because the requirements specified in some of the current Geothermal Resources Operational Orders have become out of date, BLM will revise the requirements and incorporate them into new regulations in 1997. This proposed action changes some standards and requirements from current Orders, and when finalized these changes will have precedence over the Orders standards.

A new subpart 3270 makes several changes to the existing permitting procedures and operator responsibilities for producing and utilizing geothermal resources. Several related definitions would be transferred to this part from existing part 3260, and adding a new definition for commercial operations that would specifically identify when the production permit is required. To gain a permit to construct and operate a utilization facility under this part, an operator would submit in an application a plan of utilization, utilization permit, production permit, site license and joint utilization agreement, where applicable. The applicant would need to submit the plan of utilization and the utilization permit together, while the remaining items could be submitted together or separately, although BLM will not approve the utilization permit until receiving a site license and related bond. These changes to the permitting process are intended to provide the operator increased flexibility in submitting the necessary information as it becomes available. The same process would apply to all types of utilization facility proposals, rather than using separate procedures for permitting research and demonstration facilities and individual well facilities, as the current regulations do.

Before any surface disturbing activities associated with utilization facility construction and testing could begin, BLM would have to approve the plan of utilization, utilization permit and site license. An approved utilization permit would authorize the site preparation, construction and testing of a facility located on lands leased for federal geothermal resources or Indian land. Production permit approval would then be needed to begin commercial operation (defined as delivering any form of geothermal resources for sale or for use by the operator) of the facility or the utilization of federal resources. By contrast, only the production permit would be needed to locate a proposed utilization facility on unleased public lands receiving production allocated to or from wells located on federal leases or Indian lands.

The plan of utilization would describe the proposed facility and its

environmental protection measures, and the operator could begin building the facility according to this plan once BLM approves the utilization permit. Those portions of the plan of operation, as described in the existing regulations, that involve requirements related to utilization would become requirements of the plan of utilization. However, instead of requiring the operator in all cases to collect baseline environmental data prior to the initiation of production, BLM would determine which, if any, specific environmental parameters should be addressed, and begin degradation monitoring. BLM could also require monitoring of facility operations as a condition of approval of the permit to ensure environmental compliance.

The site license requirements would be moved from part 3250 to proposed subpart 3270 and directly incorporated into the utilization permitting process. At the time of application, the site license area must be on federally leased lands, although the license term would not be based on the lease term. Applicants would be required to submit a site license bond with their license application. Other requirements, such as the minimum utilization bond amount of $100,000 for any electrical generation facility and the current bonding requirement for direct use facilities, would remain unchanged. A site bond may not be required for a direct use facility.

The proposed regulations would eliminate the requirement that a lessee or unit operator pay a minimum annual rent of $100 per acre for the site license area, because the lease already grants the right to utilize a reasonable amount of surface for utilization and the lessee has already paid either rental or royalties. However, if an entity other than a lessee or unit operator owns the utilization facility, the site license rental would still be required. Furthermore, should the location of a site license area occur on a federal lease which has terminated, the license could remain in effect with facility siting authorized by BLM under FLPMA for BLM-managed lands, or by the appropriate surface management agency (in coordination with BLM) for all other lands.

When the facility is owned by someone other than the lessee or unit operator, a joint utilization agreement would be required as part of the site license approval process. This document constitutes the agreement between a lessee or unit operator and a third party siting a unitization facility on their land. The third party, as the facility operator, would then assume full responsibility for all phases of facility permitting and operations.

The production permit authorizes the sale and/or use of federal geothermal resources, and BLM must approve this permit before a utilization facility starts commercial operation. For this permit, the applicant must provide specific information about the proposed facility's operations, particularly its production and royalty metering. The new rules would reduce the current requirement for detailed engineering drawings to require only generalized schematics of the facility. BLM could attach conditions of approval to the production permit, such as monitoring of the facility to ensure compliance with environmental and/or operational standards, and BLM could modify or shut down the facility operation were it in noncompliance with environmental or operational standards.

The new regulations would incorporate and add greater detail to Geothermal Resource Operational Order 7, containing standards for the types and accuracy of meters used to measure production or utilization or to determine royalties. The proposed regulations would identify the following for both electrical generation and direct use facilities: (1) where the operator must locate the various types of meters (43 CFR 3276.41); (2) meter accuracy standards which vary depending on the volume of resource measures (43 CFR 3276.42); and (3) meter accuracy standards for installation and measurement.

Several issues regarding the site license and joint utilization agreements remain open questions, and BLM is seeking the public's input regarding these questions. First, BLM believes that the provisions for a site license should be eliminated, as a site license does not grant any additional authority to utilize the surface beyond that already granted by an approved utilization plan. BLM is therefore contemplating removing this provision in the future. If you believe the site license performs a necessary function, are there any alternatives to the current system that would serve the same purpose?

BLM is also seeking comments regarding whether the public believes BLM should continue to require a rental for a site license if the site licensee is other than a geothermal lessee.

Some final matters: editorial changes have been made to correct several cross-references; and BLM will modify its forms to accommodate the numerous changes in the proposed regulations, as well as to account for existing forms which have expired.

III. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA), and has found that the proposed rule would not constitute a major federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified previously. BLM invites the public to review these documents by contacting us at the addresses listed above (see **ADDRESSES**), and suggests that anyone wishing to submit comments in response to the EA and FONSI do so in accordance with the Written Comments section above, or contact us directly.

Paperwork Reduction Act

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1004–0034, 1004–0074, 1004–0132 and 1004–0160.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. BLM has determined under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the proposed rule is not a significant regulatory action. As such, the rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Unfunded Mandates Reform Act

Revision of 43 CFR group 3200 will not result in any unfunded mandate to state, local or tribal governments in the aggregate, or to the private sector, of $100,000,000 or more in any one year.

Executive Order 12612

The proposed rule would not have sufficient federalism implications to

warrant BLM preparation of a Federalism Assessment (FA).

Executive Order 12630

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically excludes actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the proposed rule is to abolish unnecessary regulations and rewrite existing ones, there will be no private property rights impaired as a result. Therefore, BLM has determined that the rule would not cause a taking of private property, or require further discussion of takings implications under this Executive Order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author

The principal authors of this proposed rule are Richard Hoops and Jack Lewis of the Nevada State Office, Sean Hagerty and Sonia Santillian of the California State Office, Richard Estabrook of the Ukiah District Office, Jack Feuer and Donna Kauffman of the Oregon State Office, Dennis Davis of the Prineville District Office, and Robert Henricks and Connie Seare of the Utah State Office, all of the Bureau of Land Management.

List of Subjects

43 CFR Part 3200

Environmental protection, geothermal energy, government contracts, public lands-mineral resources, reporting and recordkeeping requirements, surety bonds.

43 CFR Part 3210

Geothermal energy, government contracts, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements.

43 CFR Part 3220

Geothermal energy, government contracts, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements.

43 CFR Part 3240

Geothermal energy, government contracts, land management bureau, mineral royalties, public lands-mineral resources, reporting and record keeping requirements, water resources.

43 CFR Part 3250

Geothermal energy, geothermal exploration, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements, surety bonds.

43 CFR Part 3260

Environmental protection, geothermal energy, government contracts, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements.

Dated: September 27, 1996.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

For the reasons set forth above in the preamble, and under the authority of the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001–1027), The Freedom of Information Act (5 U.S.C. 552), and the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*), 43 CFR chapter II is amended as set forth below:

PARTS 3210, 3220, 3240, 3250 AND 3260—[REMOVED]

1. Parts 3210, 3220, 3240, 3250 and 3260 are removed.

2. The heading ''GROUP 3200—GEOTHERMAL RESOURCES LEASING'' and the accompanying note is removed.

3. Part 3200 is revised to read as follows:

PART 3200—GEOTHERMAL RESOURCE LEASING

Subpart 3200—Geothermal Resource Leasing—General

Sec.

Subpart 3201—Available Lands

Subpart 3202—Lessee Qualifications

Subpart 3203—Obtaining a Lease

Subpart 3204—Noncompetitive Leasing

Subpart 3205—Competitive Leasing

Subpart 3206—Lease Issuance

Subpart 3207—Additional Lease Term

Subpart 3208—Extending the Current Lease Term

Authority: 5 U.S.C. 552; 30 U.S.C. 1001–1027; 43 U.S.C. 1733, 1740.

Subpart 3200—Geothermal Resource Leasing

§ 3200.1 What are the meanings of terms I need to know to understand the regulations in this part?

Act means the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001 *et seq.*).

Additional term means the 40 years beyond the primary term of a producing lease. The additional term is granted when geothermal steam is produced or utilized in commercial quantities within the primary term. This differs from an extended term because additional terms constitute a new lease term; whereas extensions lengthen the primary term without creating a new term. See the procedures in subpart 3207 of this part.

Assignment means a transfer of all or a portion of the lessee's record title interest in a lease.

Byproducts are minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam that are not of sufficient value to warrant extraction and production by themselves because they have a value of less than 75% of the value of the geothermal steam or because of technical difficulties in extraction and production.

Casual use means activities that ordinarily lead to no more than negligible disturbance or damage to lands, resources, or improvements.

Commercial quantities means either:

(1) For production from a lease, a sufficient volume (in terms of flow and temperature) of the resource to provide a reasonable return after all variable costs of production are met; or

(2) For production from a unit, a sufficient volume of the resource to provide a reasonable return after all variable costs of production and drilling are met.

Cooperative agreement means an agreement for the production and utilization of separately owned interests in the geothermal resources in which separate ownership units are independently operated without allocation of production.

Development contract means an agreement between one or more lessees and one or more entities which, when approved by BLM, facilitates resource exploration and serves to protect the public interest.

Exploration operations means any activity relating to the search for evidence of geothermal resources. This activity requires physical presence on the land and may result in damage to public lands or resources. Exploration includes, but is not limited to, geophysical operations such as drilling shallow temperature gradient wells or holes used for explosive charges for seismic exploration. It also includes related construction of roads and trails, and cross-country transit by vehicles over public land. Exploration operations do not include the production or utilization of geothermal resources, which may only be conducted under a lease and in accordance with the regulations of this part (see subparts 3260 and 3270 of this part).

Extended term means an initial and any successive 5-year period beyond the primary term of a lease during which BLM will grant the lessee the right to continue activities under the existing lease. Extensions differ from an additional term because they serve to extend the primary term, rather than creating a new one. See the procedures in subpart 3208 of this part.

Facility operator means the entity receiving authorization from BLM to site, construct, test and/or operate a utilization facility. A facility operator may be a lessee, a unit operator, or a third party.

Geothermal exploration permit is an application you submit describing proposed exploration operations and which, when approved by BLM, authorizes geothermal exploration operations and associated surface disturbance.

Geothermal resources operational order means a formal, numbered order, issued by BLM, that implements or enforces the regulations in this Part.

Geothermal steam and associated geothermal resources are products of geothermal steam or hot water and hot brines, including those resulting from water, gas, or other fluids artificially introduced into geothermal formations, heat or other associated energy found in geothermal formations, and byproducts derived from these.

Geothermal sundry notice is a written request submitted by an operator for permission to deviate from operations in a previously approved permit or sundry notice. A geothermal sundry notice may also be submitted to obtain permission to perform work not otherwise covered in a permit or sundry notice.

Joint utilization agreement means an agreement between a facility operator and a Federal lessee or unit operator, if the two entities are different, which permits a facility operator to construct a utilization facility on Federal lands leased for geothermal resources. The agreement must provide for the construction, testing and operation of a utilization facility on the lease.

Known geothermal resource area (KGRA) is an area where BLM determines that persons knowledgeable

in geothermal development would expend money to develop geothermal resources. For more information on how BLM determines KGRAs, see 43 CFR 3203.11.

MMS means the Minerals Management Service.

Notice to lessees means a written notice issued by BLM that implements the regulations in this part or geothermal resource operational orders, and provides more specific instructions on geothermal issues within a state, district or resource area.

Operating rights owner means a person or entity holding operating rights in a lease. A lessee is also an operating rights owner if the operating rights or a portion of them have not been severed from record title.

Operator means any person or entity who has assumed responsibility for the operations conducted on the leased lands.

Plan of utilization means a plan which fully describes the utilization facility, including measures for environmental protection and mitigation. An approved plan of utilization permits the siting of a utilization facility on federal lands.

Primary term means the first 10 years of a lease, not including any periods of suspension.

Produced or utilized in commercial quantities means a well producing geothermal resources in commercial quantities, or the completion of a well capable of producing geothermal resources in commercial quantities when BLM determines the lessee is diligently attempting to utilize the geothermal steam.

Production permit means authorization from BLM allowing for the production of geothermal resources from federal lands.

Public domain lands or public lands means lands, including mineral estates, that never left the ownership of the United States, were obtained in exchange, reverted to the ownership of the United States through the operation of the public land laws, or have been identified by Congress as part of the public domain.

Record title means an interest in a lease which includes the responsibility for paying rent and the right to assign and relinquish the lease.

Relinquishment means action taken by the lessee to voluntarily end the lease in whole or in part.

Shallow temperature gradient wells means a well drilled up to 500 feet deep for the purpose of obtaining information on the change in temperature over the depth of the well in order to extrapolate temperatures at a greater depth.

Site license means authorization from BLM allowing the construction of a utilization facility on leased Federal lands.

Stipulation means a condition attached by BLM to a lease or permit.

Temperature gradient wells means a well drilled to a depth of 4000 feet or more for the purpose of obtaining information on the change in temperature over the depth of the well in order to extrapolate temperatures at a greater depth.

Termination means the cancellation of a lease due to nonpayment of annual rental, cessation of production, or other action by the lessee which breaches the contract.

Transfer means conveyance of any interest a party may have in a Federal lease. This definition includes the terms assignment and sublease.

Unit agreement means an agreement for the exploration, production and utilization of separately owned interests in geothermal resources as a single consolidated unit without regard to separate ownerships and which provides for the allocation of costs and benefits on a basis defined in the agreement.

Unit area means all tracts committed to an approved unit agreement.

Unit operator means any person or entity that has stated in writing to BLM that it is responsible for the operations conducted under the unit agreement and is so designated in the unit agreement.

Unitized substances means geothermal resources recovered from lands committed to a unit agreement.

Utilization permit means authorization from BLM allowing site preparation, construction, and testing of a utilization facility.

Waste means:

(1) Physical waste, including refuse; and/or

(2) Improper use or unnecessary dissipation of geothermal resources through inefficiency in drilling, production, transmission, or utilization.

Working Interest means an interest granted by a lease, operating agreement or other authorizing document in geothermal resources conveying the right to explore for, develop, produce, and use geothermal resources, except that such rights delegated to a unit operator by a unit agreement are not working interests.

§ 3200.2 Information collection.

(a) The collection of information contained in this part has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1004–0034, 1004–0074, 1004–0132 and 1004–0160. The information will be used to maintain an orderly program for leasing, development and production of Federal geothermal resources, to evaluate technical feasibility and environmental impacts of geothermal operations on Federal and Indian lands, and to determine whether exploration expenditures meet the requirements for diligence credit under 43 CFR 3202.5. The public must respond to the requests for information in order to obtain a benefit.

(b) Public reporting burden for this information is estimated to average 1.6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimates or any other aspects of this collection of information, including suggestions for reducing the burden, to Administrative Record, Bureau of Land Management, Room 401 LS, 1849 C Street, NW., Washington, DC 20240; and the Paperwork Reduction Project (1004–0160), Office of Management and Budget, Washington, DC 20503.

(c) There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases that specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR part 270 or a specific section thereof. Those references must now be read to mean either the Bureau of Land Management or the Minerals Management Service as appropriate.

§ 3200.3 What are my rights of appeal?

You may appeal any decision made by BLM under this part in accordance with 43 CFR parts 4 and 1840.

Subpart 3201—Available Lands

§ 3201.10 What lands are available for geothermal leasing?

(a) BLM may issue leases on:

(1) Lands administered by the Department of the Interior, including public, withdrawn and acquired lands;

(2) Lands administered by the Department of Agriculture with its concurrence;

(3) Lands conveyed by the United States where the geothermal resources were reserved to the United States; and

(4) Lands subject to section 24 of the Federal Power Act, as amended (16 U.S.C. 818), with concurrence from the Secretary of Energy.

(b) BLM will not issue, extend, review or modify a lease that would result in a significant adverse effect on a significant thermal feature within a unit of the National Park system. If BLM determines such a potential exists, we will include in any lease action all stipulations required by law and necessary to protect such features.

§ 3201.11 What lands are not subject to geothermal leasing?

BLM will not issue leases for:

(a) Lands where the Secretary has determined that issuance of the lease would cause unnecessary or undue degradation;

(b) Lands that are contained within a unit of the National Park System, or are otherwise administered by the National Park Service;

(c) Lands within a national recreation area;

(d) Lands where the Secretary determines that geothermal operations are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System;

(e) Fish hatcheries or wildlife management areas administered by the Secretary;

(f) Indian trust or restricted lands within or without the boundaries of Indian reservations;

(g) The Island Park Geothermal Area; and

(h) Lands where section 43 of the Mineral Leasing Act (30 U.S.C. 226–3) prohibits leasing which includes:

(1) Wilderness areas or wilderness study areas administered by BLM or other surface management agencies;

(2) Lands designated by Congress as wilderness study areas, except where leasing is specifically allowed to continue by the statute designating the study area; and

(3) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96–119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or are released to uses other than wilderness by an act of Congress.

Subpart 3202—Lessee Qualifications

§ 3202.10 Who can hold a geothermal lease?

You may hold a geothermal lease if you are:

(a) A citizen of the United States who has reached the age of majority;

(b) An association, including a partnership, of United States citizens;

(c) A corporation organized under the laws of the United States, any state or the District of Columbia; or

(d) Any domestic governmental unit.

§ 3202.11 Must I prove I can hold a lease when filing a lease offer?

Ordinarily you do not need to submit proof at the same time you submit the offer, but BLM has the right to request information regarding your qualifications at any time, including when you submit your offer. If BLM requires additional information, you have 30 days from your receipt of the request to submit the information.

§ 3202.12 Are other persons allowed to act in my behalf?

Yes, one person may act on behalf of another, provided he or she notifies BLM. The person taking the action must sign the document, note his or her title, identify the person on whose behalf he or she is acting, and be qualified to hold a lease under 43 CFR 3202.10. BLM may require the person to provide written proof of his or her qualifications and authority to take such action.

§ 3202.13 What happens if the offeror dies before the lease is issued?

If the offeror dies before the lease is issued, BLM will issue the lease to either the administrator or executor of the estate or the heirs. If the heirs are minors, BLM will issue the lease to either a legal guardian or trustee, provided that the legal guardian or trustee is also qualified to hold a lease under 43 CFR 3202.10.

Subpart 3203—Obtaining a Lease

§ 3203.10 How can I obtain a geothermal lease?

You must first determine if the lands are located in a known geothermal resource area (KGRA). BLM leases lands within a KGRA through a competitive sale. If the lands you wish to lease are within a KGRA, you must follow the procedures for submitting a bid set out in subpart 3205 of this part. BLM issues a competitive lease to the person or entity submitting the highest qualified bid. BLM leases available lands outside a KGRA noncompetitively. You may lease lands outside a KGRA by submitting an offer following the procedures set out in subpart 3204 of this part. BLM issues noncompetitive leases to the first qualified applicant. BLM may issue a lease for a fractional interest if we determine the public interest is well served by doing so.

§ 3203.11 How is a KGRA determined?

BLM determines the boundaries of a KGRA based on the following indicators:

(a) Geologic and technical evidence that indicates persons knowledgeable in geothermal resource development would spend money developing the area;

(b) Lands within 5 miles of a well capable of production in commercial quantities, or all lands in the same geologic structure, regardless of the distance from the well capable of production in commercial quantities; and

(c) Where competitive interest exists. Competitive interest exists where more than one person expresses interest in leasing an area for geothermal resources.

Subpart 3204—Noncompetitive Leasing

§ 3204.10 How do I file an offer to lease?

You or your authorized agent must submit three (3) executed copies of current Form 3200–24 to BLM. At least one form must have an original signature. We will accept only exact copies of the form on one two-sided page, to match the original. The application must accurately describe the lands covered by your application. You may obtain this form (and other BLM forms) by contacting the nearest BLM Office.

§ 3204.11 How do I describe the lands in my lease offer?

You must describe the lands as follows:

(a) For lands surveyed under the public land rectangular survey system, describe the lands by legal subdivision, section, township, and range;

(b) For unsurveyed lands, describe the lands by metes and bounds, giving courses and distances, and tie this information to an official corner of the public land surveys, or to a prominent topographic feature;

(c) For approved protracted surveys, include an entire section, township, and range. Do not divide protracted sections into aliquot parts;

(d) Discuss offers for unsurveyed lands in Louisiana and Alaska that have water boundaries with BLM prior to submission; and

(e) For fractional interest lands, identify the United States mineral ownership by percentage.

§ 3204.12 What fees must accompany my offer?

You must submit a nonrefundable filing fee of $75 for each offer and advance rental in the amount of $1 per acre, or fraction of an acre. BLM will refund the advance rental if we reject the offer, or you withdraw the offer before BLM accepts it. If your advance rental is deficient by more than 10 percent, BLM will reject the offer.

§ 3204.13 May I combine acquired and public domain lands on the same offer?

Yes, as long as you clearly identify both the acquired lands and the public domain lands.

§ 3204.14 What are the minimum and maximum acreage requirements for my offer?

The minimum size of a lease is 640 acres. Your offer must include all available lands in the section. If the section contains lands not available for leasing, the lease must include all the available lands in the section, which is then the minimum size of the lease. The maximum size of a lease is 2560 acres, although BLM will make an exception to this requirement when an offer includes an irregular subdivision. Leases must not extend outside a 6 mile square area.

§ 3204.15 What happens when two or more applicants apply for a noncompetitive lease for the same land?

BLM begins processing applications as soon as they are received. Once BLM approves a noncompetitive lease application, any later applications received for the same land are rejected. However, if BLM receives additional applications for the same land while the original application is still pending, BLM must determine if the overlapping applications warrant converting the land at issue to a KGRA.

(a) If BLM determines that the land should be considered a KGRA, then all noncompetitive applications are rejected, and applicants must follow the procedures for competitive bidding to obtain a lease.

(b) If BLM determines that KGRA status is not warranted despite the multiple applications, then the lease will be awarded to the first qualified applicant.

§ 3204.16 How does BLM determine the first qualified applicant?

BLM determines the first qualified applicant by the priority in which the application is filed. BLM issues a noncompetitive lease to the offeror who is first to file an application that meets all the application requirements.

§ 3204.17 May I withdraw my offer?

Yes, you may withdraw your offer in whole or in part prior to lease issuance, provided the remaining lands in a partial withdrawal comply with the acreage requirements.

§ 3204.18 May I amend my offer?

Yes, you may amend your offer prior to lease issuance provided your amended offer complies with all the lease offer requirements. BLM will give your amended offer a new priority based on the date we receive it.

Subpart 3205—Competitive Leasing

§ 3205.10 How does BLM lease competitive lands?

BLM leases Federal lands within KGRAs through a sealed bid, competitive sale process. BLM generally establishes parcels of lands available for competitive leasing from terminated, expired, or relinquished leases and from public expressions of interest. BLM lists these parcels, with stipulations, if applicable, in a sale notice, posts the notice in an appropriate BLM office and publishes the notice for 3 consecutive weeks in a newspaper of general circulation in the area of the lands. The sale notice will tell you which lands are offered, and where and when to submit your bids. BLM can request you to pay the cost of publication, if you are awarded the lease.

§ 3205.11 How do I obtain information on the terms and conditions of the leases being offered through competitive bidding?

BLM will post a statement which will include the terms and conditions of the lease(s), including the rental and royalty rates. The statement will also tell you where you may obtain a form on which to submit your bid.

§ 3205.12 How do I bid for a parcel?

Unlawful combination or intimidation of bidders is prohibited by 18 U.S.C. 1860. You must follow these procedures:

(a) Submit your bid to the BLM office indicated in the notice prior to the date and time specified in the sale notice;

(b) Submit your bid on Form 3000–2 (or exact copy);

(c) Submit a bid in a separate, sealed envelope for each full parcel;

(d) Include in each bid a certified or cashier's check, bank draft, or money order equal to one-fifth of the amount bid, payable to the ''Department of the Interior, Bureau of Land Management;'' and

(e) Label each envelope with the parcel number and the statement ''Not to be opened before (date posted in the sale notice).''

§ 3205.13 What is the minimum acceptable bid?

BLM will not accept bids which do not meet or exceed the fair market value as determined by BLM in accordance with generally acceptable appraisal methods. BLM determines the fair market value prior to the sale, but does not disclose it to the public.

§ 3205.14 How does BLM conduct the sale?

On the date, and at the place and time set out in the sale notice, BLM opens, announces, and records bids. BLM does not accept or reject any bid at that time. Bidders are not required to attend the sale.

§ 3205.15 To whom does BLM issue the lease?

BLM will issue the lease to the highest responsible qualified bidder within 30 days. If BLM determines that the highest bid is inadequate, BLM will reject the bid. BLM reserves the right to reject any and all bids.

§ 3205.16 How will I know if my bid is accepted?

(a) BLM will send you a letter accepting your bid. The letter will be accompanied by 3 copies of the lease. Upon receipt of the letter and lease forms, you have 15 days in which to submit:

(1) The signed lease forms;

(2) The remaining four-fifths of the bonus bid;

(3) The first year's advance rental; and

(4) Signed stipulations, if applicable.

(b) If you fail to comply with these requirements BLM will revoke acceptance of your bid and you will forfeit one-fifth of your bonus bid.

§ 3205.17 How will I know if my bid is not accepted?

BLM will send a letter rejecting your bid. At that time, BLM will return the one-fifth of the bonus bid that you submitted with your application.

Subpart 3206—Lease Issuance

§ 3206.10 Are there any additional requirements prior to lease issuance?

Yes.

(a) You must:

(1) Accept all lease stipulations;

(2) Sign a unit joinder or waiver, if applicable; and

(3) Comply with the maximum limits on acreage holdings.

(b) BLM must:

(1) Make a determination of land availability;

(2) Make a determination that development on your lease will not significantly impact any significant

thermal feature within any of the following units of the National Park System:

(i) Mount Rainier National Park;

(ii) Crater Lake National Park;

(iii) Yellowstone National Park;

(iv) John D. Rockefeller, Jr. Memorial Parkway;

(v) Bering Land Bridge National Preserve;

(vi) Gates of the Arctic National Park and Preserve;

(vii) Katmai National Park;

(viii) Aniakchak National Monument and Preserve;

(ix) Wrangell-St. Elias National Park and Preserve;

(x) Lake Clark National Park and Preserve;

(xi) Hot Springs National Park;

(xii) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park);

(xiii) Lassen Volcanic National Park;

(xiv) Hawaii Volcanoes National Park;

(xv) Haleakala National Park;

(xvi) Lake Mead National Recreation Area; and

(xvii) Any other significant thermal features within National Park System Units which the Secretary may, after notice and public comment, in accordance with the criteria set out in 30 U.S.C. 1026(a)(3), add to the list of significant thermal features.

§ 3206.11 What is the maximum acreage I may hold?

You may not hold, either directly or indirectly, more than 51,200 acres in any one state, including any leases acquired under the provisions of sections 4(a)–4(f) of the Act. You are also not permitted to convert mineral leases, permits, applications for permits, or mining claims, pursuant to the provision of sections 4(a)–4(f) of the Act, into geothermal leases totaling more than 10,240 acres.

§ 3206.12 How does BLM compute acreage holdings?

BLM will compute acreage holdings in the following manner:

(a) If you own an undivided interest in a lease, your accountable acreage will be your proportionate part of the total lease acreage.

(b) If you own stock in a corporation or a beneficial interest in an association which holds a geothermal lease, your accountable acreage will be your proportionate part of the corporation's or association's acreage; except no one will be charged with a pro rata share of any acreage holdings of any association or corporation unless the person is a beneficial owner of more than 10% of the stock of the corporation or the beneficial interest of the association.

(c) If you own a royalty interest, record title, or operating rights, you will be charged with your proportionate percentage of the total lease acreage only. You will not be charged twice for the same lease or for different interests in the same lease. For example, if you own a 2% overriding royalty, 10% of the operating rights and 50% of the record title in a lease, you will be charged with 50% of the total lease acreage.

§ 3206.13 Am I charged for acreage if the United States owns only a fractional interest in the geothermal resources?

Yes, you are charged with the same proportion as the United States owns of the mineral estate. For example, if you own 100% of record title in a 100 acre lease, and the United States owns 50% of the mineral estate, you are charged with 50 acres.

§ 3206.14 Are there any acreages which are not chargeable?

BLM does not count acreage in any approved unit or cooperative plan or acreage subject to an operating, drilling or development contract other than communitization or drilling agreements, in determining accountable acreage of the lessees or operators.

§ 3206.15 What procedures does BLM follow when a party holds or controls excess accountable acreage?

BLM will notify you of an excess acreage situation, and give you 90 days to divest yourself of the excess acreage. If you fail to comply BLM will cancel your leases, beginning with the lease most recently issued, until your chargeable acreage is within the maximum allowable.

§ 3206.16 What is the primary term of my lease?

Leases have a primary term of 10 years.

§ 3206.17 When will BLM issue my lease?

Leases are issued the day they are signed by BLM, and are effective the first day of the month following the issue date.

Subpart 3207—Additional Lease Term

§ 3207.10 Under what circumstances is my lease eligible for an additional term beyond its primary term?

A lease is eligible to be renewed for an additional term under the following conditions:

(a) If you produce or use geothermal steam in commercial quantities within the primary term, the lease will continue for as long as geothermal steam is produced or used in commercial quantities. However, the additional term may not exceed forty years beyond the primary term unless the provisions of paragraph (c) of this section apply.

(b) If, prior to the end of the primary term, you have a well capable of producing geothermal steam in commercial quantities, BLM may decide to continue the lease for an additional forty-year period, if we determine that you are making diligent efforts to commence production. You must submit to BLM a written description of the efforts completed for the lease year and the efforts planned for the next lease year 60 days before the lease expires. Your submission should include descriptions of negotiations for sales contract, marketing arrangements, and electrical generating and transmission agreements and any other information you believe supports a finding of diligent efforts.

(c) If at the end of the additional 40-year term, BLM does not need the lands for another purpose and you are producing geothermal steam in commercial quantities, you will have preferential right to renew the lease for an additional 40-year term under terms and conditions determined by BLM.

Subpart 3208—Extending the Current Lease Term

§ 3208.10 Under what circumstances is my lease eligible for an extension of the primary term?

(a) A lease is eligible for an extension under the following circumstances:

(1) If you commence drilling before the end of the primary term and diligently pursue drilling to a reasonable drilling target, as determined by BLM based on the local geology and type of development proposed by the operator, the lease will be extended for a 5-year period. If geothermal steam is produced or utilized during this 5-year period, the lease will be extended for a further period not to exceed 35 years. If at the end of that 35-year period you are producing or utilizing geothermal steam in commercial quantities and the lands are not needed for other purposes, you will have a preferential right to renew the lease for an additional 40-year period under such terms and conditions as BLM determines are appropriate.

(2) If the term of any lease committed to a unit agreement would expire prior to the term of the unit expiring, BLM will extend the term of the lease to match the term of the unit.

(3) BLM may extend any lease which at the end of its primary term or at the end of an extension provided by either

paragraphs (a)(1) or (a)(2) of this section is not producing geothermal steam, for up to 10 years in successive five-year extensions.

(4) If you have a lease which produced geothermal steam, and BLM determines that it is no longer capable of commercial production, BLM may extend the lease for a 5-year period. This extension will only continue if you are producing one or more valuable byproducts in commercial quantities. You should consult 43 CFR 3209.10 if you wish to convert your lease to a mineral lease for the byproduct.

(b) For an explanation of the difference between an ''additional term'' and an ''extended term'' please see the definitions in 43 CFR 3200.1.

§ 3208.11 What procedures must I follow to obtain an extension of my lease?

(a) If you are obtaining an extension under 43 CFR 3208.10 (a)(2) or (a)(4), you need not take any action. BLM will grant your lease the applicable extension. If your lease is eligible for the extension under 43 CFR 3208.10(a)(1), you should notify BLM of your drilling activities so we may document that you conducted the required drilling at the end of the primary term of your lease.

(b) If you are requesting an extension under 43 CFR 3208.10(a)(3), you must:

(1) Submit a written request to BLM for lease extension 60 days prior to the end of the primary or extended term of your lease;

(2) Include a report documenting that you have made *bona fide* efforts to produce or utilize geothermal resources in commercial quantities given the current economic conditions for marketing geothermal steam; and

(3) Indicate whether you choose to make payments in lieu of commercial quantities production or to make significant expenditures during the period of extension.

(c) Within 30 days of receipt of your request for extension, BLM will notify you whether the request is approved or disapproved, or we will request additional information from you, if necessary.

§ 3208.12 What information must I include in the report to document that I have made bona fide efforts?

The report must include a description of:

(a) Operations conducted during the primary term of the lease and currently in progress to identify and define the geothermal resource on the lease;

(b) A summary of the results of those operations;

(c) Actions taken in support of operations such as obtaining permits, conducting environmental studies, meeting permit requirements or other related activities;

(d) Actions taken during the primary term of the lease and currently in progress to negotiate marketing arrangements, sales contracts, drilling agreements, financing for electrical generation and transmission projects, or other related actions; and

(e) Current economic factors and conditions which affect your efforts to produce or utilize geothermal resources in commercial quantities on the lease.

§ 3208.13 What will BLM do if I choose to make payments in lieu of commercial operation?

If you elect to make payments in lieu of commercial quantities production and BLM approves the extension, BLM will modify the lease to require that you make an annual payment in lieu of production in the amount specified by BLM, but not less than $3.00 per acre or fraction of an acre of the lands under lease during an initial extension, or $6.00 per acre or fraction of an acre for a subsequent extension. The actual payment per acre is fixed for the period of the extension. If you request it, BLM will inform you of the rate before you submit your petition for extension. You must submit in lieu payments to MMS at the same time you pay the lease rental. The lease is subject to cancellation if you do not make these payments.

§ 3208.14 What will BLM do if I choose to make significant expenditures?

If you elect to make significant expenditures, and BLM approves the extension, we modify the lease to require you to make annual expenditures of at least $15.00 per acre or fraction of an acre for lands under lease during an initial extension. You must have expenditures of $18.00 per acre or fraction of an acre during a subsequent extension. BLM credits expenditures you make in excess of the minimum required to subsequent years within the same period of extension. Expenditures that qualify as significant expenditures are limited to those involving actual drilling operations on the lease, geochemical or geophysical surveys for exploratory or development wells, road or generating facility construction on the lease, architectural or engineering services procured for the design of generating facilities located on the lease, and environmental studies required by State or Federal law. To obtain credit toward meeting the significant expenditure requirement, you must submit to BLM a report of qualifying expenditures no later than 60 days after the end of the lease year in which the expenditures were made. BLM may cancel your lease if you fail to make such expenditures.

§ 3208.15 May I change my election of making payments in lieu of commercial quantities or making significant expenditures during the extension?

No. You may not change election during a period of extension, but must continue either to make payments in lieu of production or make significant expenditures until you drill a well that is capable of producing geothermal resources in commercial quantities.

Subpart 3209—Conversion of Lease Producing Byproducts

§ 3209.10 May I convert my geothermal lease to a mineral lease?

Yes, you may under the following conditions:

(a) If you have received a 5-year extension under subpart 3208 and the byproducts being produced are leasable under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 *et seq.*), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–358), and the lease is primarily valuable for the production of that mineral, you are entitled to convert your geothermal lease to a mineral lease, provided you convert your lease prior to the end of the 5-year period. You will be subject to all the terms and conditions of the act permitting leasing of the mineral.

(b) If the minerals are not leasable but are locatable and would be considered a byproduct if geothermal steam production were to continue, you are entitled to locate these minerals under the mining laws. To acquire these rights, you must complete the location of the mining claim within 90 days after the termination of the geothermal lease, as long as there has been no intervening location and the lands are open to entry under the mining laws.

(c) If leases converted under either paragraphs (a) or (b) of this section affect lands withdrawn or acquired in aid of a function of a federal department or agency, including the Department of the Interior, you may be subject to additional terms and conditions as prescribed by the appropriate agency.

Subpart 3210—Additional Lease Information

§ 3210.10 When does lease segregation occur?

(a) Lease segregation occurs when:

(1) A portion of a lease is committed to a unit agreement, communitization agreement, drilling agreement, or

cooperative plan, and a portion of the lease is not committed; or

(2) Only a portion of a lease is located in a participating area and the unit contracts. The portion of the lease outside the participating area is eliminated from the unit agreement and segregated as of the effective date of the unit agreement.

(b) The portion of the lease within the plan or agreement will keep the same serial number. BLM will give the portion outside the plan or agreement a new serial number with the same lease terms as the original lease.

§ 3210.11 Is a lease segregated from an agreement or plan eligible for an extension?

No. The new lease will stand alone, and will not receive any of the benefits provided to the original lease by virtue of the agreement or plan. The eliminated portion of the lease is not eligible for extension due to production in commercial quantities, or the existence of a producible well on the lands remaining in the agreement or plan, or by virtue of the segregation.

§ 3210.12 May I consolidate leases?

BLM may approve the consolidation of two or more contiguous leases that have the same ownership and same lease terms, as long as the combined leases do not exceed 2,560 acres in size.

§ 3210.13 What is the diligent exploration requirement?

Diligent exploration is a lease requirement to perform activities which derive new geologic information regarding the lease or related lands. You must conduct diligent exploration beginning in the sixth year of the primary term until there is a well capable of commercial production. Some examples of activities that would qualify as diligent exploration are geochemical surveys, heat flow measurement, core drilling or drilling of test drill wells.

§ 3210.14 How do I meet the diligent exploration requirement?

(a) During the first 5 years of the primary term, you only need to pay your rentals. If you conduct activities during these first five years that would otherwise qualify as diligent exploration expenditures, and BLM approves them as such during those five years, BLM will count them toward the requirements of future years.

(b) To qualify as diligent exploration expenditures in lease years 6 through 10, you must make expenditures equal to the minimum amounts set forth in the table below. BLM will apply approved expenditures in excess of the requirement in any one year to subsequent years.

Lease year	Expenditure per acre
6	$4
7	6
8	8
9	10
10	12

(c) To obtain credit for the expenditures you must submit a report to BLM no later than 60 days after the end of the lease year in which you made the expenditures. You must include the following information in your report:

(1) The types of operations conducted;

(2) The location of the operations;

(3) When the operations occurred;

(4) The amount of money spent conducting those operations; and

(5) All geologic information obtained from your operations.

(d) After BLM reviews your report, we will notify you in writing whether you have met the diligent expenditure requirement. BLM must approve the type of work done and the expenditures claimed in your report before they will be credited toward your diligent exploration requirements.

§ 3210.15 Is there an option to performing diligent exploration?

Yes. If you do not wish to conduct diligent exploration or if your total expenditures do not fully meet the requirement for any lease year, you may meet the diligent exploration requirement by paying an additional rental of $3 per acre or fraction of an acre. If you choose this option, you must submit the additional rental to MMS prior to the end of the lease year.

§ 3210.16 What happens if I don't meet the diligence requirement or pay the additional rental?

BLM will cancel your lease if you fail to perform and report the necessary operations and expenditures or pay the additional rental for each lease year prior to the end of that lease year.

§ 3210.17 Can leases or locations for other mineral commodities occur on the same lands that my geothermal lease is located?

Yes. The United States reserves the ownership of and the right to extract helium, oil and hydrocarbon gas from all geothermal steam and associated geothermal resources. In addition, mineral leasing or location is allowed on the same lands that are leased for geothermal resources, provided that operations under the mineral leasing or mining laws do not unreasonably interfere with or endanger geothermal operations, and the lands are not withdrawn.

§ 3210.18 May BLM readjust the terms and conditions of my lease?

Yes. Ten years after the commencement of production from your lease and at not less than 10-year intervals thereafter, BLM may readjust the terms and conditions of your lease as they pertain to stipulations and surface disturbance requirements. If the readjustment pertains to use, protection or restoration of the surface and the lands are managed by another federal agency, that agency must approve the adjustments.

§ 3210.19 How will BLM readjust the terms and conditions of my lease?

BLM will provide you with a written proposal for adjustment of the terms and conditions of your lease. You have 30 days to object to the new terms or relinquish your lease. If BLM does not receive an objection, these terms will become part of your lease.

§ 3210.20 May BLM readjust the rental and royalty rates of my lease?

Yes. Your lease rates are subject to readjustment at not less than 20-year intervals beginning thirty-five years after BLM determines that your lease is producing. Your rental and royalty will not be increased by more than 50 percent of what was paid during the preceding period. In no case will BLM raise the royalty rate beyond 22½ percent. You will be provided with written notice of BLM's proposed adjustments. If you do not object to the adjustment or relinquish your lease within 30 days of receipt of the notice, the new rate will become a part of your lease.

§ 3210.21 What happens if I object to the proposed readjusted terms and conditions or rental and royalty rates?

BLM will issue a decision responding to your objections. If we cannot reach an agreement within a 60-day period, either party may terminate the lease.

§ 3210.22 What lease obligations am I accountable for during readjustment negotiations?

If you object to the proposed terms and conditions of your lease, you are still bound by the current lease terms. To avoid termination of the lease, you must pay the proposed rentals and royalties timely, under protest. If we reach an agreement on rentals that differs from BLM's proposal, BLM will refund the difference.

§ 3210.23 When do the readjusted terms become effective?

The new terms and conditions will be effective at the end of the prior term.

§ 3210.24 Must I prevent the drainage of geothermal resources from my lease?

Yes. You must prevent the drainage of geothermal resources from your lease by either:

(a) Diligently drilling and producing wells which will protect the Federal geothermal resource from loss caused by production from other properties; or

(b) Paying a sum determined by BLM as adequate compensation for failure to drill and produce any wells necessary to protect the Federal resource. BLM must agree to your use of this option.

Subpart 3211—Fees, Rentals, and Royalties

§ 3211.10 What are the filing fees, rentals, and royalties for leases?

Rental and royalty payments are calculated based on the acreage amount. Therefore, prior to calculating rental and minimum royalty payments, you must determine the acreage amount. You must round up partial acreage to the next whole acre. You would then multiply the rounded acreage by the appropriate amount set out in the following chart to determine the amount you owe. Example: Rental on a lease containing 2,456.39 acres is calculated based on 2,457.00 acres.

FILING FEES, RENTALS, AND ROYALTIES

Type	Competitive	Non competitive
Lease Filing Fee	N/A	$75.00.
Lease Rental	$2.00 per acre	$1.00 per acre.
Lease Assignment Filing Fee	$50.00	$50.00.
Royalties:		
steam, heat, or energy	between 10% and 15%	between 10% and 15%.
demineralized water	5%	5%
byproducts	5% [a]	5% [a].
minimum royalty	$2.00 per acre	$2.00 per acre.
Additional rental/In lieu of diligent exploration	$3.00 per acre in addition to regular lease rental.	$3.00 per acre in addition to regular lease rental.
Additional rental/In lieu of commercial quantities production.	$3.00 per year/first 5 years, $6.00 per year/second 5 years.	$3.00 per year/first 5 years, $6.00 per year/second 5 years.

[a] Note the exception stated in 43 CFR 3211.17(b).

§ 3211.11 When is my annual rental payment due?

(a) You must submit your annual rental payments so they are received by BLM or MMS, as appropriate, on or before the anniversary date of each lease year. There is no grace period for rental payments. If the rental for your lease is not timely paid, the lease will automatically terminate by operation of law, unless you meet the conditions of 43 CFR 3213.15 of this part. Rental payments are considered timely received if they are postmarked by the United States Postal Service, common carrier, or their equivalent, on or before the anniversary of the lease. This does not include private postal meters. If less than a full year remains on a lease, you are still responsible for paying a full year's rental on or before the anniversary date of the lease.

(b) When BLM terminates a lease suspension (see subpart 3212 of this part) and you had paid rent in advance, BLM applies a prorated amount to the annual rental or minimum royalty to complete the lease year requirement and return to the next anniversary date. BLM applies any remaining monies to the next year's rental. You must pay the balance due on or before the next anniversary date to fulfill your rental obligation for the next year. If you relinquish the lease, or fail to pay the balance due on or before the next anniversary date, BLM will refund the outstanding monies. If there is insufficient rental to complete payment on the lease year (i.e., to return the next anniversary date), BLM will notify you of payment due and grant you 30 days from receipt of the notification to remit the balance.

(c) If payment is due on a day in which the designated payment office is closed, payment received on the next official working day is considered timely.

§ 3211.12 How and where do I submit my rental payment?

You must pay BLM the first year's advance rental. You must pay subsequent rentals, royalties, and in lieu payments to MMS. Payments may be made to the BLM in the form of personal or cashier's check or money order and should be made payable to the Department of the Interior—Bureau of Land Management. You may also make payments by credit card or electronic funds transfer when specifically authorized by BLM. Payments to the MMS by personal or cashier's check, money order, or electronic funds transfer, should be made payable to the Department of the Interior—Minerals Management Service.

§ 3211.13 Is there a different rental or minimum royalty amount for a fractional interest lease?

BLM will not prorate rentals and minimum royalties payable under leases for lands in which the United States owns only a fractional mineral interest. You must pay for the full acreage in the lease.

§ 3211.14 Prior to production, am I expected to pay rental if my lease is committed to an approved cooperative or unit plan?

Yes. You are expected to pay rental in accordance with 43 CFR 3211.10.

§ 3211.15 When unit production starts, am I expected to pay rental if my lease is committed to an approved cooperative or unit plan?

As soon as production is established on your lease, lands included in an approved cooperative or unit plan, which are within the participating area, are subject to royalties in accordance with 43 CFR 3211.17. All other unitized lands remain subject to rental in accordance with 43 CFR 3211.10.

§ 3211.16 Will I always pay rental on my lease?

No, you are required to pay rentals only until you achieve production in commercial quantities. At that time the lease converts to royalty status.

§ 3211.17 What are the possible royalty rates of my lease?

(a) BLM will set out the royalty rate in the lease. BLM will determine the royalty rate based on the following:

(1) The royalty rate for heat or energy derived from lease production may range from 10–15% of the heat or energy value.

(2) The royalty rate for the value of byproducts derived from production under the lease and sold or utilized or reasonably susceptible to sale or utilization may not exceed 5%, except that the royalty rate for minerals listed in section 1 of the Mineral Leasing Act (MLA), 30 U.S.C. 181, will be the same as that provided in the MLA.

(3) The royalty rate for demineralized water produced on a lease may not exceed 5%, except that BLM will not charge a royalty for water used in the operations of a utilization facility.

(4) The minimum royalty rate on a producing lease is $2.00 per acre.

(b) Occasions when the minimum royalty rate might apply are when an initial positive well commerciality determination is made but actual production has not yet begun, or when the value of actual production is so low that royalty due under the applicable schedule (in paragraphs (a)(1) through (a)(3) of this section) is less than $2.00 per acre.

Subpart 3212—Suspension of Operations or Operations and Production

§ 3212.10 May I obtain a suspension of operations or operations and production on my lease, and if so, for what reasons?

The operator may request in writing that BLM place a producing lease in suspension. Your request must fully describe the need for the suspension. BLM, on its own, may suspend operations on any lease in the interest of conservation. The suspension may include leases committed to an approved unit agreement. Suspending the leases in a unit does not affect unit obligations.

§ 3212.11 When is a lease suspension effective or terminated?

(a) A suspension will take effect and will last for the period specified by BLM. Prior to the expiration of the time specified, you may request in writing that BLM lift the suspension. If BLM agrees to lift the suspension and permit you to resume operations, you must also resume payment of rentals and royalty, as applicable.

(b) BLM may, upon information obtained by or furnished to BLM, order the resumption of operations, if BLM determines that the operations are necessary to protect the interests of the United States.

§ 3212.12 How does a suspension affect the lease terms?

An approved suspension stays all lease obligations. You do not have to conduct drilling, produce thermal steam or pay rents or royalties. The time during which the suspension is effective does not count toward the lease term.

§ 3212.13 What happens when the suspension is lifted or removed?

When BLM lifts a suspension, we extend the lease term by adding the number of days the lease was under suspension to the term. BLM suspends rental or minimum royalty payments the first day of the lease month following the effective date of the suspension. Your obligation to resume these payments begins on the first day of the lease month in which BLM lifts the suspension.

§ 3212.14 May BLM reduce or suspend the royalty or rental rate of my lease?

Yes, if you submit an application requesting a waiver, suspension or reduction of your rent or royalty, BLM may grant the request if it determines the following:

(a) It is in the interests of conservation;

(b) Doing so will encourage the greatest ultimate recovery of resources;

(c) It is necessary to promote development; or

(d) The lease cannot be successfully operated under the current lease terms.

§ 3212.15 What information must I submit when requesting a reduction or suspension of the royalty or rental rate of my lease?

(a) Your request must include:

(1) The type of reduction being requested;

(2) The serial number of the lease;

(3) The name of the lessee and operator;

(4) The number, location, and status of each well;

(5) A summary of monthly production from the lease during the last 6 months;

(6) A detailed statement of expenses and costs, and all facts necessary for BLM to determine if the well can be operated under its current terms; and

(7) Any other information requested by BLM.

(b) If the application is for a reduction in royalty, you must also submit a list of names and amounts of royalties or payments out of production paid to each individual, and every effort you have made to reduce these payments.

Subpart 3213—Relinquishment, Termination, Cancellation, and Expiration

§ 3213.10 Who may relinquish a lease?

The record title holder or its authorized agent may relinquish a lease in full or in part, and must sign the relinquishment. If there is more than one record title holder to a lease, all record title holders or their authorized agents must sign the relinquishment.

§ 3213.11 What form must I submit to relinquish a lease?

You must submit a written request to BLM that includes the serial number of each lease you are relinquishing. If you are relinquishing the entire lease, no legal description of the land is required. If you are relinquishing part of the lease, you must describe the lands relinquished.

§ 3213.12 Can BLM accept a partial relinquishment resulting in less than 640 acres?

BLM may not accept a partial relinquishment that reduces the lease acreage to less than 640 acres or all of the land in the section if less than 640 acres is available. BLM may waive the minimum acreage provision found at 43 CFR 3204.14, if BLM determines that an exception is justified to further development of the resource.

§ 3213.13 When does my relinquishment take effect?

Once approved by BLM, your relinquishment takes effect as of the date it is filed, provided that you and your surety have fulfilled your obligations to:

(a) Pay all rentals and royalties due prior to relinquishment;

(b) Plug and abandon all wells on the relinquished land; and

(c) Restore the surface resources and comply with environmental stipulations in accordance with all applicable laws and regulations and lease terms.

§ 3213.14 How does a lease terminate?

A lease terminates under the following conditions:

(a) If you fail to produce or commence production prior to the end of the primary term or obtain an extension, the lease terminates at the end of that period; or

(b) If you fail to pay the rental on or before the anniversary date, the lease automatically terminates by operation of law, unless you meet the conditions of 43 CFR 3213.15.

§ 3213.15 What if I don't pay the entire amount of rental due?

If your payment is received timely, but is deficient by a nominal amount,

your lease will not automatically terminate. A nominal amount is not more than $100 or 5% of the total payment due, whichever is less. BLM will notify you if your payment is deficient and will set a date by which the deficient payment must be made. Failure to submit the deficiency in the time allowed will result in lease termination as of its anniversary date.

§ 3213.16 Will BLM notify me if my lease terminates?

Yes, BLM will send a notice by certified mail, return receipt requested.

§ 3213.17 Can my lease be reinstated? If so, how?

Yes, if the lease was terminated for failure to timely pay your rentals. You will be given 30 days to petition for reinstatement.

§ 3213.18 Who may petition to reinstate a lease?

Every record title holder of the lease must sign a petition for reinstatement.

§ 3213.19 What must I do to obtain a reinstatement?

You must submit a petition to BLM requesting reinstatement. The petition should include the serial number for each lease and state your reason for late payment. You must also submit the rental, including any back rental which has accrued from the date of termination with your petition, if you have not already paid it to MMS. You must also include an explanation of why the delay in payment was justifiable and not due to a lack of diligence.

§ 3213.20 Are there reasons why BLM would not approve a reinstatement?

Yes, BLM will not approve a reinstatement if:

(a) You do not prove that failure to pay rent on or before the anniversary date was justifiable or was not due to a lack of diligence on the part of the lessee;

(b) A valid lease has been issued for any of the lands prior to the filing of a petition for reinstatement (BLM will not issue another lease for at least 90 days after the date of termination); or

(c) The land has become unavailable for leasing.

§ 3213.21 When will my lease expire?

A lease expires at the end of its primary term (10 years) unless it meets requirements for an extended or additional term. BLM will not notify you when your lease expires at the end of the primary term.

§ 3213.22 Will BLM notify me when my lease expires if it is in an extended term?

BLM will notify the lessee by decision that BLM has determined that diligent efforts are not being made to use the geothermal resources. The lease will expire 30 days after you receive the decision. During those 30 days, you may request reconsideration of the decision by submitting information detailing why you believe you have made diligent efforts to use the resource.

§ 3213.23 May BLM cancel my lease?

BLM may cancel a lease after 30 days notice if we determine that you violated the laws and regulations governing geothermal leases and operations or you violated the lease terms. BLM may also cancel a lease that was issued in error.

§ 3213.24 When is a cancellation effective?

(a) If cancellation is due to a violation of the laws, regulations or lease terms, the cancellation is effective 30 days from your receipt of notification of the violation. The cancellation of a lease issued in error is effective upon issuance of the notice of cancellation. BLM will not cancel the lease if:

(1) You have corrected the violation; or

(2) BLM determines that the violation can not be corrected during the 30 day period and BLM determines you are making a good faith attempt to timely correct the violation.

(b) You may request an evidentiary hearing regarding the violation or proposed lease cancellation within 30 days from receipt of the violation notification, in accordance with 43 CFR parts 4 and 1840. If a hearing occurs and the administrative law judge decides a violation occurred, you will have 30 days from receipt of the decision to commence or complete any corrective action.

Subpart 3214—Personal and Surety Bonds

§ 3214.10 Who must post a geothermal bond?

The lessee, operating rights owner, or operator must file a bond prior to the commencement of exploration operations, drilling operations or whenever the operator is changed.

§ 3214.11 Who is covered by the bond?

The principals named on the bond and any other parties the principal or surety has consented to cover are covered by the bond.

§ 3214.12 What does my bond cover?

Your bond covers all surface disturbing and down hole activities related to drilling and associated operations on a Federal lease, reclamation, payment of rentals and royalties, performance of all other lease terms and conditions, and compliance with all applicable laws and regulations.

§ 3214.13 What is the minimum dollar amount required under each type of operation bond?

(a) For exploration activities, the bond may not be less than $5,000 for each operation;

(b) For an individual lease, the bond may not be less than $10,000 for each lease;

(c) For a statewide bond which covers all of your leases and operations in any one state, the amount may not be less than $50,000; or

(d) For a nationwide bond which covers all of your leases and operations nationwide, the amount may not be less than $150,000.

§ 3214.14 What kind of financial guarantee will BLM accept to back my bond?

BLM will accept:

(a) Corporate surety bonds, provided that the surety company is approved by the Department of Treasury (see Department of the Treasury Circular No. 570 which is published in the Federal Register every year on or about July 1); and

(b) Personal bonds, which are guaranteed by a cashier's check, certified check, certificate of deposit, negotiable securities such as Treasury notes, or irrevocable letter of credit (see 43 CFR 3214.22). BLM will not accept cash to back a bond.

§ 3214.15 Is there a special bond form I must use?

You must use a bond Form (Form 3000–4, June 1988 or later editions) approved by BLM for either a corporate surety bond or a personal bond.

§ 3214.16 Where must I submit my bond?

You must file personal or corporate surety bonds and statewide bonds in the BLM State Office having jurisdiction over your lease or operations. You may file nationwide bonds in any BLM State Office. You must file bond riders in the BLM State Office where your bond is located. For personal or corporate surety bonds you must file a single, originally signed copy of the bond.

§ 3214.17 Who will BLM hold liable under the bond and what are they liable for?

All interest owners in a lease assume full liability, jointly and severally, from the effective date of the lease for compliance with all applicable laws, regulations, lease terms and conditions. Among other things, all interest owners are liable for:

(a) Well plugging and abandonment;
(b) Surface reclamation;
(c) Outstanding rental or royalty payments;
(d) Assessed royalties to compensate for drainage; and
(e) Other requirements related to operations on the lease.

§ 3214.18 What are my bonding requirements when a lease interest is transferred to me?

(a) If the lands transferred to you contain a well or any other surface disturbing activity which was not reclaimed by the original lessee, you must post a bond. The bond must cover all of the transferee's liability, and those holding an interest or engaging in operations on the lease.
(b) If you previously furnished a statewide or nationwide bond, you do not need to post an additional bond.
(c) If the operator provided the original bond, and the operator does not change, you do not need to post a new bond.
(d) If the original lessee does not transfer all interest in the lease to you, you may become a co-principal on the original bond.

§ 3214.19 How do I modify or extend the terms and conditions of my bond?

You may modify your bond by submitting a rider to the BLM State Office where your bond is held. There is no special form required.

§ 3214.20 Can BLM ever increase the bond amount above the minimums?

Yes. BLM may increase the bond amount beyond the minimums set out in 43 CFR 3214.13, if those amounts will not cover the estimated costs of plugging and abandoning wells, abandoning utilization facilities, and/or performing surface reclamation. BLM may also increase the amount of your bond if BLM determines that:
(a) The liability on the lease exceeds the amount of the bond; or
(b) The operator has a history of noncompliance.

§ 3214.21 Where can I get a certificate of deposit or a letter of credit?

You must obtain a certificate of deposit or letter of credit through a Federally insured financial institution authorized to do business in the United States.

§ 3214.22 What special requirements are there if I want to use a certificate of deposit to back my bond?

Your certificate of deposit must:
(a) Be issued by a federally insured financial institution;
(b) Include on its face the statement, ''The Secretary of the Interior or his delegate must approve redemption of this certificate by any party'';
(c) Not expire;
(d) Automatically renew; and
(e) Show it is payable to the Department of the Interior—Bureau of Land Management.

§ 3214.23 What special requirements are there if I want to use a letter of credit to back my bond?

Your letter of credit must:
(a) Be issued by a federally insured financial institution authorized to do business in the United States;
(b) Be payable to the Department of the Interior—BLM;
(c) Be irrevocable during its term and have an initial expiration date of not less than one year following the date BLM receives it;
(d) Be automatically renewable for a period of not less than one year, unless the issuing financial institution provides BLM with written notice that it will no longer be renewed at least 90 days before the letter of credit expires; and
(e) Include a clause that grants the Secretary authority to demand immediate payment, if you fail to meet your obligations under the regulations and lease terms.

Subpart 3215—Bond Collection After Default

§ 3215.10 In what circumstances does BLM collect on a bond?

If you fail to meet your obligations under the regulations or the lease terms, BLM may collect up to the face amount of the bond. Examples of some activities that may result in forfeiture of the bond are failure to:
(a) Properly plug and abandon a well;
(b) Reclaim the lease area;
(c) Pay outstanding rental and royalty payments;
(d) Pay assessed royalties to compensate for drainage; and,
(e) Meet other requirements related to lease operations.

§ 3215.11 As the principal on the bond, may BLM require me to restore the face amount of my bond or require me to replace my bond after BLM collects on default?

Yes. If the bond is reduced or fully depleted, you must either:
(a) Post a new bond of equal value; or
(b) Restore the existing bond to the amount previously held, before continuing any operations on the lease.

§ 3215.12 What if I do not restore the face amount or file a new bond?

BLM may initiate action to shut-in any well(s) and proceed to cancel all of your leases covered by the subject bond.

§ 3215.13 When will BLM cancel or terminate my bond?

(a) BLM does not cancel or terminate bonds. However, BLM will:
(1) Terminate the period of liability of a surety or other provider of a bond at any time. The bond provider must provide 30 days' notice to BLM and to the principals whose obligations are secured. You may not conduct any operations after a bond is terminated, without providing a new bond satisfactory to BLM. BLM will also terminate the period of liability on an old bond once a new bond has been filed and BLM accepts it; and
(2) Release your bond when we have determined, after the passage of a reasonable period of time, that you have paid all royalties, rentals, penalties, and assessments, satisfied all permit or lease obligations, reclaimed the site, and taken effective measures to ensure that the mineral prospecting or development activities will not have an adverse effect on surface or subsurface resources.
(b) Any release of the bond does not release or waive any claim the BLM may have against any person under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*, or under any other applicable laws or any regulations.

Subpart 3216—Transfers

§ 3216.10 What types of lease interests can I transfer?

You can transfer record title, operating rights, or overriding royalty interests.

§ 3216.11 Where and when am I required to file a transfer of interest?

You must file your transfer in the BLM State Office in which your lease is located if:
(a) You are conveying any interest in your lease;
(b) An interest holder dies; or
(c) A corporate merger or name change occurs.

§ 3216.12 When does a transferee assume responsibility for lease obligations?

Upon BLM's approval of your transfer, the transferee assumes full liability for performance of all lease obligations incurred after the date of the transfer.

§ 3216.13 What are the responsibilities of the transferor?

The transferor remains responsible for payment of rents and royalties accrued prior to the transfer, payment due to any drainage, and all lease obligations that accrued prior to the transfer.

§ 3216.14 Are there required filing fees and forms associated with filing my transfer?

Yes. The following table identifies filing requirements:

Type of transfer	Form required	Form number	Number of copies	Filing fee
Record Title	Yes	3000–3	3 executed copies	$50.00
Operating Rights	Yes	3000–3(a)	3 executed copies	$50.00
Overriding Royalty	No	Form 3000–3 or in letter form.	2 executed copies	$50.00
Estate Transfers	No	N/A	1 List of Leases	None
Corporate Mergers	No	N/A	1 List of Leases	None
Name Changes	No	N/A	1 List of Leases	None

§ 3216.15 Is there a required time frame for filing requests for approvals of transfers?

Yes.

(a) You must file a request for approval of transfers of record title, operating rights, and overriding royalty within 90 days from the date the transferor signs the document. If you do not file the request within the 90 days, BLM may require you to recertify that the transfer is still in force and effect.

(b) No specific time frame is required for filing estate transfers, corporate mergers, and name changes. However, such documents must be filed within a reasonable time.

§ 3216.16 Must I file separate requests for approval of transfers for each lease?

Yes. You must file a separate request for approval of transfer for each lease involving transfers of record title or operating rights, unless you are transferring rights on more than one lease to the same entity. In that case, you may file just one transfer application.

§ 3216.17 Where must I file estate transfers, corporate mergers and name changes?

(a) If you hold a bond for any Federal lease, you must file estate transfers, corporate mergers, and name changes in the BLM State Office that maintains your bond.

(b) If you do not hold a bond, you must file estate transfer, corporate merger and name change documents in the State Office having jurisdiction over the lease.

§ 3216.18 How do I describe the lands in my lease transfer?

(a) If you are transferring the entire lease, a legal description of the land is not required.

(b) If you are transferring a portion of the lease, describe the lands in the same manner as they are described on the lease.

§ 3216.19 Can I transfer record title interest for less than 640 acres?

BLM will not approve a record title assignment in whole or in part if the lease size is reduced to less than 640 acres, unless the total acreage in the lease includes an irregular subdivision. BLM may make an exception to the minimum acreage provision found at 43 CFR 3204.14, if it is necessary to conserve the resource.

§ 3216.20 When does an assignment segregate a lease?

If you assign 100% of the record title interest in a portion of your lease, BLM segregates the assigned portion from the original lease and gives it a new serial number with the same terms and conditions as those in the original lease.

§ 3216.21 When is my assignment/transfer effective?

Your transfer or assignment becomes effective the first day of the month following its approval by BLM.

§ 3216.22 Does BLM grant all requests for approval of transfer?

No. BLM will not approve a transfer if the lease account is not in good standing or the transferee does not qualify to hold a lease under this part.

Subpart 3217—Cooperative Conservation Provisions

§ 3217.10 What is the purpose of unit agreements and cooperative plans?

Lessees enter into a unit agreement or a cooperative plan to conserve the resources of any geothermal field or area. Conservation of the resource is achieved by collectively developing and operating a geothermal field or area. BLM will not approve unit agreements which BLM determines are not in the public interest. Unit agreement application procedures are provided in 43 CFR part 3280.

§ 3217.11 What is the purpose for communitization or drilling agreements?

Communitization or drilling agreements provide for resource development when operators cannot independently develop separate tracts due to established well spacing or well development programs. Lessees may request approval of communitization or drilling agreements or BLM may require the lessees to enter into such agreements.

§ 3217.12 What information regarding a proposed communitization or drilling agreement must you submit to BLM?

You must provide the following information:

(a) The location of the separate tracts comprising the drilling or spacing unit;

(b) The apportionment of production or royalties to each separate tract;

(c) The name of each tract operator; and

(d) Provisions for the protection of the interests of all parties, including the United States.

§ 3217.13 When is a communitization or drilling agreement effective?

A communitization or drilling agreement is effective when it is signed by BLM. BLM will not approve the agreement unless all involved parties sign the agreement, and BLM determines that the tracts cannot be independently developed.

§ 3217.14 Under what conditions will BLM approve operating, drilling or development contracts?

BLM may approve an operating, drilling or development contract when:

(a) The contract is entered into by one or more geothermal lessees with one or more persons or partnerships;

(b) The contract is necessary for large scale operations and financing related to the discovery, development, production, or transmission, transportation or utilization of geothermal resources; and

(c) BLM determines that the contract is required for the conservation of the resource, or public convenience, or the interest of the United States would be served by the approval.

§ 3217.15 What information must I submit to BLM regarding proposed operating, drilling or development contracts?

You must submit:

(a) The contract and a statement of its need;

(b) All the interests held by the contractor in the area or field;

(c) The types and scheduling of operations to be conducted under the contract;

(d) Indication that approval of the contract will not result in any concentration of control over the production or sale of geothermal resources which would violate the antimonopoly laws of the United States;

(e) Copies of all contracts held by the same contractor in the area or field; and

(f) Any other information BLM may require to make a decision regarding the proposed contract or to attach any conditions of approval.

Subpart 3250—Exploration Operations—General

§ 3250.10 What is the purpose, scope and authority of the subparts pertaining to exploration operations?

(a) The regulations in this subpart establish procedures for conducting geothermal exploration operations:

(1) On BLM administered public lands, whether leased or unleased for geothermal resources, and covers lessees and nonlessees; and

(2) On any Federally owned lands leased for geothermal resources.

(b) The regulations in this subpart do not apply to:

(1) Unleased land when the surface is administered by an agency other than the Bureau of Land Management, unless the surface management agency decides to apply them;

(2) Privately owned land; or

(3) Casual use activities.

Subpart 3251—Permitting of Exploration Operations

§ 3251.10 What types of operations may I propose when submitting an application for an exploration permit?

You may propose any activity fitting the definition of ''exploration operations''.

§ 3251.11 May I conduct exploration operations on my lease, someone else's lease or unleased land?

Yes. You may conduct exploration operations on any public lands open to geothermal leasing regardless of whether or not the lands are leased. The right to conduct exploration operations under an approved permit is nonexclusive. If the lands are already leased for geothermal resources or other minerals, your operations may not unreasonably interfere with or endanger other operations. In addition, you must not unreasonably interfere with or endanger other authorized uses, or cause unnecessary or undue degradation of the lands.

§ 3251.12 Do I need a permit prior to conducting exploration operations?

Yes. You must have an approved exploration permit prior to beginning any exploration operations, whether you have a geothermal lease covering the lands or not.

§ 3251.13 What information must I submit with my application for an exploration permit?

(a) For any exploration operation other than temperature gradient wells, you must fully describe your exploration plans and procedures, and include the approximate commencement and termination dates.

(b) For temperature gradient wells, you must fully describe your drilling and completion procedures. You must submit the following information submitted for a single well or for several wells proposed to be drilled in an area of geologic and environmental similarity:

(1) A detailed description of the equipment, materials, and procedures you will use;

(2) The depth of the well;

(3) The casing and cementing program;

(4) The circulation media (mud, air, foam, etc.);

(5) A description of the logs that you will run;

(6) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;

(7) The expected depth and thickness of fresh water zones;

(8) Anticipated lost circulation zones;

(9) Anticipated temperature gradient in the area;

(10) Well site layout and design;

(11) Existing and planned access roads or ancillary facilities;

(12) Source of drill pad and road building material and water supply; and

(13) Any other information BLM may require.

(c) For both (a) and (b) above, you must provide:

(1) Evidence of bond coverage;

(2) Estimates of how much surface disturbance your exploration may cause;

(3) A narrative statement describing the proposed measures to be taken for the protection of the environment;

(4) Methods for reclamation of the surface; and

(5) All other information or data that BLM may require.

§ 3251.14 What action will BLM take on my permit?

BLM will notify you if additional information is needed to process your permit. You will also be notified as to whether your permit has been approved or denied.

§ 3251.15 How do I receive BLM approval to change permitted exploration operations?

You may request a change to an approved exploration permit by submitting a sundry notice. The sundry notice must fully describe the requested changes. You may not proceed with the change until you receive approval from BLM.

§ 3251.16 Must I submit data obtained through exploration operations to BLM?

Yes. When you conduct exploration operations on your lease(s), you must submit all data obtained as a result of the operations with the notice of completion of exploration operations, unless BLM approves a later submission.

§ 3251.17 Are there any bonding requirements for conducting exploration operations?

(a) Yes. Before you start any operation BLM must receive and approve one of the following:

(1) A surety or personal bond for the individual permit or lease for at least $5,000;

(2) A statewide exploration bond of at least $25,000 covering all exploration operations in the state in which the exploration is being conducted;

(3) A nationwide exploration bond of at least $50,000 or

(4) A rider to an existing nationwide or statewide oil and gas exploration bond to include geothermal resources exploration operations.

(b) These bond amounts are minimums. BLM may require an increase if you have a history of noncompliance or if the minimum amounts will not cover the estimated costs of reclamation, or performance of other permit terms.

§ 3251.18 When will the bond be released?

BLM will not release any bond until we are satisfied that you have complied with the terms and conditions of the exploration permit, including reclamation, associated sundry notices, and all applicable requirements.

Subpart 3252—Conducting Exploration Operations

§ 3252.10 What operational requirements must I meet when conducting exploration operations?

(a) You must comply with BLM orders and other standards and procedures found in the applicable laws, regulations, geothermal resources operational orders, notice to lessees, conditions to the approved plan or permit, and lease terms.

(b) You must also:

(1) Take all necessary precautions to keep all exploration operations under control at all times;

(2) Use trained and competent personnel;

(3) Use properly maintained equipment and materials;

(4) Use operating practices which ensure the safety of life and property;

(5) Prevent the unnecessary waste of or damage to geothermal or other energy and mineral resources; and

(6) Prevent injury.

§ 3252.11 What environmental requirements must I meet when conducting exploration operations?

(a) You must conduct all operations performed under this part in a workmanlike manner to:

(1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic and recreational resources;

(3) Accommodate, as much as possible, other land uses; and

(4) Protect human and wildlife resources from unacceptable noise level.

(b) You must remove or, with BLM's permission, properly store all equipment and materials not in use.

(c) You must provide and use pits, tanks and sumps of adequate capacity. They must be designed to retain all materials and fluids resulting from drilling of temperature gradient wells or other operations, unless otherwise specified by BLM. When no longer needed, you must properly abandon pits and sumps.

(d) BLM may require you to submit a contingency plan describing procedures to protect life, property, and the environment.

§ 3252.12 How deep may I drill a temperature gradient well?

You may drill a temperature gradient well to any depth approved by BLM in your exploration permit or sundry notice. Regardless of depth, you are not permitted to produce or inject geothermal resources. BLM may modify your permitted depth at any time before or during drilling, when the bottom hole temperature or other information indicates that drilling to the original permitted depth could create risks to human health, safety or the environment.

§ 3252.13 How long may I collect information from my temperature gradient well?

You may collect information from your temperature gradient well for as long as approved by BLM. BLM will require you to abandon a well when BLM determines it is necessary to protect the environment or to meet operational standards.

§ 3252.14 What are the requirements for completing and abandoning a temperature gradient well?

You must submit a sundry notice to obtain BLM approval before abandoning a well and conducting surface reclamation. You must complete temperature gradient wells in a manner which will allow for abandonment and which will prevent interzonal migration of fluids. Tubing must be capped when not in use. You must also reclaim the surface to BLM specifications.

§ 3252.15 Must I notify BLM when I have completed my exploration operations?

Yes. You must file with BLM a notice of completion of exploration operations describing the exploration operations, well history, completion, abandonment procedures, and site reclamation measures within 30 days after:

(a) Completion of any geophysical exploration operations;

(b) Completion of the drilling of temperature gradient wells;

(c) Abandonment of a temperature gradient well; and

(d) When all exploration sites are abandoned.

Subpart 3253—Inspection, Enforcement, and Noncompliance

§ 3253.10 Will BLM inspect my exploration operations?

Yes. BLM may inspect all exploration operations to ensure compliance with all applicable laws, regulations, permit terms and conditions of approval, lease terms, if applicable, orders, and notices to lessees. BLM may require additional measures to be taken to correct any unnecessary or undue damage to the lands. BLM will notify you of the nature and extent of any required measures and the time during which they must be completed.

§ 3253.11 What action may BLM take if my exploration operations are not in compliance?

(a) If BLM finds your operation to be in noncompliance, BLM may take one or both of the following actions:

(1) Issue you a written Incident of Noncompliance, directing you to correct any deficiencies within a specific time period;

(2) Require you to mitigate unnecessary and undue degradation caused by your operations; or

(3) Revoke or suspend your exploration permit, after notice and a hearing in accordance with 43 CFR parts 4 and 1840.

(b) If the noncompliance continues or is of a serious nature, BLM will take one or more of the following actions:

(1) Correct any operational deficiencies at your expense;

(2) Forfeit all or part of your bond;

(3) Direct modification or shutdown of your operations;

(4) Temporarily suspend your exploration permit if necessary to protect public health, safety, or the environment. This temporary suspension will go into effect immediately and will remain in effect while appeals are pending; or

(5) Initiate cancellation of the lease, if applicable.

Subpart 3255—Exploration Operations Relief and Appeals

§ 3255.10 May I request variances from notices to lessees, permit conditions of approval, and operational or other orders issued by the BLM?

Yes. BLM may approve variances which:

(a) Continue to accomplish the purpose of a requirement; and

(b) Are necessary for the proper control of:

(1) Exploration operations;

(2) Conservation of natural resources; or

(3) Protection of human health and safety, property, or the environment.

§ 3255.11 How may I appeal a BLM decision regarding my exploration operations?

(a) A party adversely affected by a decision of the BLM may appeal that decision to the Interior Board of Land Appeals as set forth in 43 CFR parts 4 and 1840.

(b) All decisions or approvals of BLM under this subpart shall remain effective pending appeal unless the Interior Board of Land Appeals determines otherwise under 43 CFR part 4.

Subpart 3260—Geothermal Drilling Operations—General

§ 3260.10 What types of geothermal operations are covered under this subpart?

(a) This subpart establishes permitting and operating procedures for drilling wells intended to flow test or produce geothermal fluids and related activities, or inject fluids into a geothermal reservoir. This subpart also addresses redrilling, deepening, plugging back, and other subsequent well operations.

(b) This subpart does not address the drilling of temperature gradient wells, which is described in subpart 3250 of this part, or the utilization of geothermal resources, which is described in subpart 3270 of this part.

§ 3260.11 What standards apply to my drilling operations?

You must conduct all drilling operations:

(a) In a prudent manner;

(b) To prevent unnecessary and undue degradation to the surface and subsurface;

(c) To maximize ultimate recovery;

(d) To result in the beneficial utilization of geothermal resources with minimum waste; and

(e) In a manner consistent with the principles of multiple use and protection of the environment.

§ 3260.12 Can BLM issue additional orders or instructions?

(a) Yes. BLM can issue detailed procedures under this subpart, so long as they are consistent with the regulations under this part. Detailed procedures will be in the form of:

(1) Geothermal Resource Operational Orders, for detailed requirements on a nationwide basis;

(2) Notices to Lessees, for detailed requirements on a statewide or regional basis;

(3) Other orders and instructions specific to a field or area;

(4) Permit conditions of approval; and

(5) Verbal orders which will be confirmed in writing.

(b) Before issuing Geothermal Resource Operation Orders or Notices to Lessees, BLM will consult with appropriate Federal and state agencies, lessees, operators, and other interested parties.

Subpart 3261—Permitting of Drilling Operations

§ 3261.10 What approval must I obtain prior to well pad construction drilling?

You must have either an approved geothermal drilling permit, and sundry notice for well pad construction, prior to beginning any surface disturbance or drilling activities.

§ 3261.11 What information must I submit to get approval for drilling operations or well pad construction?

(a) You must submit a completed and signed drilling permit or sundry notice form. The drilling permit application must include at least the following information:

(1) A detailed description of the equipment, materials, and procedures you will use;

(2) The depth of the well;

(3) If applicable, a directional program including:

(i) The bottom hole location and distances from the nearest section or tract lines;

(ii) The kick-off point;

(iii) The direction of deviation;

(iiii) The angle build-up and maximum angle; and

(iiiii) Plan and cross section maps indicating the surface and bottom hole locations;

(4) The casing and cementing program;

(5) The circulation media (mud, air, foam, etc.);

(6) A description of the logs that you will run;

(7) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;

(8) The expected depth and thickness of fresh water zones;

(9) Anticipated lost circulation zones;

(10) Anticipated reservoir temperature and pressure;

(11) Anticipated temperature gradient in the area;

(12) A plat certified by a licensed surveyor showing the surveyed surface location and distances from the nearest section or tract lines; and

(13) Any other information BLM may require.

(b) A sundry notice for well pad construction must include a description of the well pad layout and design.

§ 3261.12 What is a plan of operations?

A plan of operation describes your plans and procedures for production and utilization of the geothermal resources from the lease. It contains enough information about your proposal to permit BLM to assess the environmental impacts of your operations. This generally includes:

(a) Well pad layout and design;

(b) A description of existing and planned access roads;

(c) A description of any ancillary facilities;

(d) The source of drill pad and road building material;

(e) The source for water;

(f) A statement of surface ownership;

(g) Plans for reclamation of the surface;

(h) A description of environmental protection measures; and

(i) Any other information BLM may require.

§ 3261.13 When must I have an approved plan of operations?

You must submit a plan of operations and have it approved by BLM prior to commencing production operations on a lease. You do not need an approved plan for subsequent well operations, the construction of new production facilities or the alteration of existing production facilities, unless BLM notifies you that you must submit a plan.

§ 3261.14 Must I submit my drilling permit application and the plan of operations at the same time?

No.

(a) You may submit your drilling permit application and plan of operations simultaneously or separately. If you submit them separately:

(1) You must submit the plan of operations before the drilling permit application to allow BLM time to comply with the National Environmental Policy Act (NEPA);

(2) You must submit a sundry notice for well pad construction when you are ready to begin actual pad construction; and

(3) You must submit the plan of operations and drilling permit application when you are ready to drill a well. You should submit the plan of operations and drilling permit application at the same time.

(b) If you submit the drilling permit application and plan of operations simultaneously, the approved drilling permit application will authorize both the pad construction and the drilling and testing of the well.

§ 3261.15 Can a plan of operations and drilling permit apply to more than one well?

Yes.

(a) The plan of operation can apply to any number of well sites that are in areas of similar geology and environment.

(b) A drilling permit application may apply to more than one well if you will drill the wells in the same manner, and you expect to encounter similar reservoir conditions.

§ 3261.16 How do I amend a plan of operations or a drilling permit application?

If you want to amend a plan of operations or drilling permit application . . .	Then . . .
(a) That has not been approved.	Submit an amended plan of operation or drilling permit application.
(b) That has been approved.	Submit a sundry notice describing your proposed change.

§ 3261.17 Do I need a bond before I build a well pad or drill a well?

Before starting any operation, BLM must approve either a surety or personal bond in the amounts identified under 43 CFR 3214.13(b), (c), or (d).

§ 3261.18 How will BLM review my application documents and notify me of their status?

(a) When BLM receives your plan of operations, BLM will begin a review in accordance with NEPA. You will be notified if BLM needs more information during the NEPA review process. You will also be notified when BLM signs the Record of Decision (ROD).

(b) BLM will review your drilling permit application or sundry notice for well pad construction for conformance with your plan of operation and any mitigation measures developed during review of your plan of operation. BLM will notify you if we need additional information and will return the drilling permit application or sundry notice to you for correction.

(c) BLM will review your drilling permit application for technical adequacy and compliance with geothermal resource operation orders, notices to lessees, or other orders that BLM may have issued. BLM will notify you if we need additional information and will return the drilling permit application to you for correction.

§ 3261.19 How do I get approval to change an approved drilling operation?

(a) You must submit a sundry notice describing the proposed changes. You may not proceed with the changes until you have received approval from BLM. For operations such as redrilling, deepening, or plugging back a well, we may require you to submit a new drilling permit application (see 43 CFR 3261.20), if we determine that you are proposing a significant change to the approved drilling permit application. An example of a significant change would be redrilling the well to a completely different target, especially a target in an unknown area.

(b) For changes that will create additional surface disturbance, BLM may also require you to submit an amendment to the plan of operation.

(c) BLM may give you verbal approval for a change requiring immediate action, such as those necessary to protect life or property. In this case, you must submit a written sundry notice within 48 hours of BLM's verbal approval.

§ 3261.20 How do I get approval for subsequent well operations?

(a) You must submit a sundry notice describing your proposed operation. You may not proceed with the operation until you have received approval from BLM.

(b) BLM may waive the requirement for a sundry notice for work we determine to be routine such as cleanouts, surveys, or general maintenance. You must continue to submit sundry notices for the specific operation unless you receive a waiver from BLM. For information on how to obtain a waiver, contact BLM.

Subpart 3262—Conducting Drilling Operations

§ 3262.10 What operational requirements must I meet when drilling a well?

(a) You must:

(1) Take all necessary precautions to keep the well under control at all times;

(2) Use trained and competent personnel;

(3) Use properly maintained equipment; and

(4) Use operating practices that ensure the safety of life and property.

(b) You must use sound engineering principles and take into account all pertinent data when:

(1) Selecting the types and weights of drilling fluids;

(2) Designing a system for controlling fluid temperatures;

(3) Designing a blowout prevention equipment; and

(4) Designing a casing and cementing program.

(c) You must conduct your operation in accordance with:

(1) The Act and the regulations of this part;

(2) Orders;

(3) Notices to lessees;

(4) Lease terms;

(5) Approved plans and permits;

(6) Conditions of approval;

(7) Other instructions from BLM; and

(8) Any other applicable laws and regulations.

§ 3262.11 What environmental requirements must I meet when drilling a well?

(a) You must conduct operations to:

(1) Protect the quality of surface and subsurface water, air, natural resources including wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic, and recreational resources;

(3) Accommodate, as much as possible, other land uses;

(4) Minimize noise;

(5) Prevent injury; and

(6) Prevent damage to property and unnecessary or undue degradation of the lands.

(b) You must remove or, with BLM's approval, properly store all equipment and materials that are not in use.

(c) You must retain all fluids from drilling and testing the well in properly designed pits, sumps, or tanks.

(d) When a pit or sump is no longer needed, you must abandon it and restore the site as directed by BLM.

(e) BLM may require you to submit a contingency plan describing how you will protect life, property, and the environment.

§ 3262.12 Must I post a sign at every well?

(a) Prior to drilling a well, you must place a sign in a conspicuous place containing the following information:

(1) The name of the lessee or operator;

(2) Lease serial number;

(3) Well number; and

(4) Well location described by section, township, range, and quarter quarter-section.

(b) You must maintain each well sign until the well site is reclaimed.

§ 3262.13 Can BLM require well spacing?

Yes. BLM can require well spacing if we determine that it is necessary for proper development. If BLM does require well spacing, we will consider the following factors:

(a) Hydrologic, geologic, and reservoir characteristics of the field minimizing well interference;

(b) Topography;

(c) Unreasonable interference with multiple use of land; and

(d) Protection of the environment, including ground water.

§ 3262.14 Can BLM require me to take samples or perform tests and surveys?

Yes. We may require you to sample or test the well to determine any or all of the following:

(a) The mechanical integrity of a well;

(b) The identity and characteristics of formations;

(c) Presence of geothermal resources, water, or reservoir energy;

(d) Quality and quantity of geothermal resources;

(e) Well bore angle and direction of deviation;

(f) Formation, casing, or tubing pressures;
(g) Temperatures; or
(h) Rate of heat or fluid flow.

Subpart 3263—Well Abandonment

§ 3263.10 May I abandon a well without notifying BLM?

No. You must have an approved sundry notice before you start abandoning any well.

§ 3263.11 What information must I submit to get my sundry notice for abandonment approved?

You must submit the following information along with the sundry notice:
(a) All the information required in the well completion report (see 43 CFR 3266.10), unless BLM already has that information;
(b) A detailed description of the proposed work;
(c) Type, depth, length, and interval of plugs;
(d) How you will verify the plugs (tagging, pressure testing, etc.);
(e) Mud weight and viscosity that you will use in the uncemented portions;
(f) Plans for perforating or removing casing;
(g) Plans for surface restoration; and
(h) Any other information that BLM may require.

§ 3263.12 How will BLM review my sundry notice for abandonment and notify me of its status?

(a) After BLM receives your sundry notice, we will review it for technical and environmental adequacy. BLM will notify you if we need more information and will send you an approved sundry notice.
(b) BLM may grant verbal approval for plugging requiring immediate action. You must promptly submit the information required in 43 CFR 3263.11 within 48 hours of BLM's verbal approval.

§ 3263.13 What must I do to restore the site?

You must remove all equipment and materials and restore the site to a condition that BLM or the surface management agency specifies.

§ 3263.14 Can BLM require me to abandon a well?

Yes. If BLM determines that the well is no longer necessary for geothermal resource production, injection, or monitoring, we can require you to abandon the well. BLM may also require you to abandon a well if we determine that the well is not mechanically sound. In either case, you will be given the opportunity to justify why the well should not be abandoned before BLM issues final orders to abandon the well.

§ 3263.15 Can I abandon a producible well?

Yes. You must submit the information required in 43 CFR 3263.11. BLM may also require you to submit a statement of why you want to abandon the well. BLM may deny the request if we determine the well is needed to protect a lease from drainage, or to protect the interests of the United States or to protect the environment.

Subpart 3266—Reports

§ 3266.10 What information must I submit after completing a well?

You must submit a well completion report within 30 days after you complete a well. Your report should include at least the following:
(a) A complete chronological well history;
(b) A copy of all logs;
(c) Copies of all directional surveys; and
(d) Copies of all mechanical, flow, reservoir, and other test data.

§ 3266.11 What information must I submit after completing subsequent well operations?

(a) You must submit a report of subsequent well operations within 30 days of completing the operations. At a minimum, your report must include:
(1) A complete chronological history of the work done;
(2) A copy of all logs;
(3) Copies of all directional surveys;
(4) Copies of all mechanical, flow, reservoir, and other test data; and
(5) A statement of whether you accomplished the desired result. For example, if the well was acidized to increase production, say whether there was an increase in the production rate when you put the well back on line.
(b) BLM may waive the requirement for a report of subsequent operations for work we determine is routine such as cleanouts, surveys, or general maintenance. You must submit the report unless you receive a waiver. You may obtain a waiver by verbally requesting one from BLM at least 24 hours prior to the planned operations.

§ 3266.12 What information must I submit after abandoning a well?

You must submit a report of well abandonment within 30 days of abandoning the well. If site restoration is to be done at a later date, you may submit a separate report within 30 days of completing site restoration. The well abandonment report must contain the following information:
(a) A complete chronological history of work done;
(b) A description of each plug, including:
(1) Amount of cement used;
(2) Type of cement used;
(3) Depth that the drill pipe or tubing was run to set the plug;
(4) Depth to top of plug; and
(5) If the plug was verified, was it verified by tagging or pressure testing; and
(c) A description of surface restoration procedures.

§ 3266.13 What well records must I maintain for each well?

Yes. You must keep the following information for each well at a location that is available to BLM:
(a) A complete and accurate drilling log in chronological order;
(b) All logs;
(c) Water or steam analyses;
(d) Hydrologic or heat flow tests;
(e) Directional surveys; and
(f) A complete log of all subsequent well operations such as cementing, perforating, acidizing, and well cleanouts.

§ 3266.14 Must I notify BLM of accidents occurring on my lease?

Yes. You must inform BLM of all accidents within 24 hours which affect operations or create environmental hazards. You must also submit a report fully describing the incident, if required by BLM.

Subpart 3267—Confidential, Proprietary Information

§ 3267.10 Must I identify confidential, proprietary information that I submit to BLM?

Yes. You must clearly mark every page with the words ''Confidential Information''.

§ 3267.11 Will BLM treat information marked as confidential, as such?

Not necessarily. BLM will treat information that is exempt from release under the Freedom of Information Act as confidential. See 43 CFR part 2 for the regulations addressing privileged documents. BLM will not treat surface location, surface elevation, or well status as confidential.

§ 3267.12 How long will confidential information I submit to BLM remain confidential?

BLM will consider the information confidential as long as it remains exempt from release under the Freedom of Information Act (see 43 CFR part 2).

Subpart 3268—Inspection, Enforcement, and Noncompliance

§ 3268.10 What part of my drilling operations can BLM inspect?

(a) BLM can inspect all of your drilling operations on Federal and Indian land regardless of surface ownership. We may inspect your drilling operations for compliance with:

(1) Your approved plan of operation;

(2) Your approved drilling permit;

(3) Conditions of approval;

(4) Lease terms and conditions;

(5) Regulations and orders; and

(6) Notices to lessees.

(b) BLM can also inspect all of your maps, well logs, surveys, records, books, and accounts relative to your drilling operation.

§ 3268.11 What action can BLM take if my operations are in noncompliance?

(a) If BLM determines your operations are in noncompliance, we may take the following action:

(1) Issue you a written Incident of Noncompliance, directing you to correct any deficiencies within a specific time period;

(2) Require you to mitigate unacceptable environmental impacts caused by your operation; and

(3) Revoke or suspend your plan of operations after notice and hearing in accordance with 43 CFR parts 4 and 1840.

(b) If the noncompliance continues or is of a serious nature, BLM will take one of the following actions:

(1) Enter your lease, and correct any deficiencies at your expense;

(2) Forfeit all or part of your bond;

(3) Direct modification or shutdown of your operations if the operations are unsafe or have the potential to cause significant or irrevocable harm to the environment;

(4) Temporarily suspend your exploration permit if necessary to protect public health, safety, or the environment. This temporary suspension will go into effect immediately and will remain in effect while appeals are pending;

(5) Initiate cancellation of the lease; or

(6) Take action against the lessee, who is ultimately responsible for noncompliance.

Subpart 3269—Geothermal Drilling Operations Relief and Appeals

§ 3269.10 May I request a variance from notices to lessees, permit conditions of approval, and operational and other orders issued by BLM?

Yes.

(a) Your request must include enough information to explain:

(1) Why you cannot meet the provisions of the NTL, permit condition of approval, geothermal resource operational order, or other orders issued by BLM; and

(2) Why you need the variance to control your well, conserve natural resources, protect human health and safety, protect property, or protect the environment.

(b) BLM may approve your request verbally or in writing. If BLM gives you a verbal approval, we will follow up with written confirmation.

Subpart 3270—Utilization of Geothermal Resources—General

§ 3270.10 What types of geothermal operations are permitted under this part?

The regulations in this subpart cover the permitting and operating procedures for the utilization of geothermal resources. This includes the following types of development on leased Federal land or Indian land:

(a) Electrical generation facilities;

(b) Direct use facilities;

(c) Related utilization facility operations;

(d) Actual and allocated well field production and injection;

(e) Related well field operations; and

(f) Research and demonstration projects.

§ 3270.11 What standards apply to my utilization operations?

You must make certain that all utilization:

(a) Conforms to prudent operating practices;

(b) Is conducted in a manner that prevents unnecessary and undue degradation to surface and subsurface resources;

(c) Results in the maximum ultimate recovery; and

(d) Results in the beneficial use of geothermal resources with minimum waste.

§ 3270.12 What are my responsibilities for utilizing geothermal resources on a lease?

(a) The facility operator must comply with:

(1) Lease terms and stipulations;

(2) The approved plan of utilization;

(3) Utilization permit and production permit conditions of approval;

(4) All applicable laws and regulations;

(5) Geothermal resources operational orders, and

(6) Other written or oral orders that BLM may issue.

(b) The facility operator must also take all reasonable precautions to prevent waste, injury to persons, damage to real or personal property, and must minimize impacts to surface and subsurface resources and the environment.

Subpart 3271—Permitting of Utilization Operations

§ 3271.10 How do I obtain authorization to construct and test a utilization facility?

If you want to construct a facility * * *	Then you need * * *
(a) on Federal lands leased for geothermal resources and you are the lessee and facility operator.	POU, UP, and SLA.
(b) on Federal lands leased for geothermal resources, and you are not the lessee.	POU, UP, SLA, and JUA.
(c) on Federal lands leased for geothermal resources committed to a unit and you are the unit operator.	POU, UP, and SLA.
(d) on Federal lands leased for geothermal resources committed to a unit and you are not the unit operator.	POU, UP, SLA, and JUA.
(e) on private land committed to a Federal unit and you are the unit operator.	POU and UP only addressing pipelines or other facilities on Federal land.
(f) on private land committed to a Federal unit and you are not the unit operator.	POU and UP only addressing pipelines or other facilities on Federal land, and JUA.
(g) on private land that will utilize Federal goethermal resources from other Federal leases.	POU and UP only addressing pipelines or other facilities on Federal land.
(h) on your Federal split estate lease	no permits required to construct and test facility.
(i) on a Federal split estate lease and you are not the lessee	POU and UP only addressing pieplines or other facilities on Federal land, and JUA.

If you want to construct a facility * * *	Then you need * * *
(j) on unleased public land	FLPMA R–O–W.

Note: "POU" is a Plan of Utilization
A"UP" is a Utilization Permit
A"SLA" is a Site License Agreement
A"JUA" is a Joint Utilization Agreement
A"FLPMA" is the Federal Land Policy and Management Act
A"ROW" is a Right of Way

§ 3271.11 How do I obtain authorization to begin commercial operations?

The lessee, operator, or third party facility operator must submit an application for a production permit to BLM for approval if the commercial operations involve Federal mineral resources.

Subpart 3272—The Contents and Review of a Plan of Utilization and Utilization Permit

§ 3272.10 What must I do prior to commencing site preparation, construction and testing of the facility?

You must submit a plan of utilization and a utilization permit, and both must be approved by BLM before you begin.

§ 3272.11 What information must I submit in a plan of utilization?

A plan of utilization consists of a description of the proposed facilities and anticipated environmental impacts and proposed measures for mitigating environmental impacts.

§ 3272.12 How should I describe the proposed facility?

Your description of the proposed facility should include the following information:

(a) A generalized description of all proposed structures and facilities, including their size, location, and function;

(b) A generalized description of proposed facility operations including estimated total production and injection rates, estimated well flow rates, pressures, and temperatures, facility net and gross electrical generation, and, if applicable, interconnection with other utilization facilities. If it is a direct use facility, you must submit information required by BLM to permit BLM to determine the amount of resource utilized;

(c) A contour map covering the entire utilization site showing production and injection well pads, pipeline routes, facility locations, drainage structures, and existing and planned access and lateral roads;

(d) A description of site preparation and associated surface disturbance including the source for site or road building materials, amounts of cut and fill, drainage structures; an analysis of all site evaluation studies prepared for the site(s), and a description of any additional tests, studies, or surveys which are planned to assess the geologic suitability of the site(s);

(e) The source, quality, and proposed consumption rate of water used during facility operations, and the source and quantity of water used during facility construction;

(f) The methods for disposing of, or abating the emission of, noncondensible gases;

(g) An estimated number of personnel needed during construction and operation of the facility;

(h) A construction schedule;

(i) A schedule for testing of the facility and/or well equipment, and for the start of commercial operations;

(j) A description of architectural landscaping or other measures to minimize visual impacts; and

(k) Any additional information or data which BLM may require.

§ 3272.13 How should I describe the environmental protection measures I intend to take?

(a) Your description should include, at a minimum, measures proposed to:

(1) Prevent or control fires;

(2) Prevent soil erosion;

(3) Protect surface or ground water;

(4) Protect fish and wildlife;

(5) Protect cultural, visual, and other natural resources;

(6) Minimize air and noise pollution; and

(7) Minimize hazards to public health and safety during normal operations.

(b) Your description should also include provisions for monitoring facility operations to ensure continuing compliance with applicable regulations, geothermal resources operational orders, and noise, air, and water quality standards, and for other environmental parameters identified by BLM.

(c) BLM may require you to collect data concerning the existing air and water quality, noise, seismicity, subsidence, and ecological systems, or other environmental information for a period of at least one year prior to production. BLM will approve data collection methodologies. BLM may reduce the data collection requirements of this paragraph, including the duration of data collection, commensurate with the level of potential environmental impacts from the proposed operations.

(d) A description of the methods for the abandonment of the utilization facilities and the site restoration procedures to comply with applicable requirements of the regulations, lease, geothermal resources operational orders or other BLM orders, notices to lessees, and permit conditions of approval.

(e) You must also submit any additional information or data which BLM may require.

§ 3272.14 How will BLM review my plan of utilization and notify me of its status?

(a) BLM will review the plan of utilization for completeness, technical soundness and environmental acceptability. In coordination with the appropriate Federal surface management agency and in cooperation with other concerned Federal, state, and local agencies, BLM will comply with the National Environmental Policy Act. We will notify you if we need additional information and when we approve, modify or deny the Plan of Utilization.

(b) BLM will make all documents submitted as part of or in support of a Plan of Utilization available to all appropriate Federal, state, and local agencies, and interested members of the public for review; except that we will not make available for public review any information that is not releasable under the Freedom of Information Act, and which was submitted as part of the plan. See 43 CFR 3267.11.

(c) Before approving your plan of utilization, BLM will determine that the lease is in good standing, and you have filed an acceptable bond in accordance with the requirements of 43 CFR 3214.13 and 3273.19.

§ 3272.15 How do I obtain authorization to construct and test my facility?

You must submit a utilization permit along with your plan of utilization. BLM must approve the permit before you construct or test your facility.

Subpart 3273—Applying for and Obtaining a Site License

§ 3273.10 When do I need a site license?

You must have an approved site license if you plan to construct and operate a utilization facility on Federal lands leased for geothermal resources.

§ 3273.11 Are there any situations in which I do not need a site license?

(a) You do not need a site license if your facility will be on split estate land where the surface is not owned by the United States.

(b) You do not need a site license for installing a testing facility or using the production of an individual well for electrical power generation or another non-electrical beneficial use. However, you do need a site license if your facility is for transmission or use of more than 10 megawatt (MW) maximum output.

(c) You do not need a site license for a research and demonstration project sited on a Federal geothermal lease, if:

(1) The project does not have more than 20 MWs electrical capacity; and

(2) The facility does not have a projected life of more than 5 years from the date it becomes operational. If you intend to convert your research and development facility to a permanent commercial operation after the initial 5 year period, you must apply for a license prior to the end of the 5 years. However, you do need a drilling permit under subpart 3260 of this part for such facilities.

§ 3273.12 What if the lands I want a license for are not administered by BLM?

(a) If you want a license for land that is withdrawn or reserved for the use of a Federal agency other than BLM, BLM will consult with the surface management agency before issuing the license, and include any terms and conditions requested by the agency.

(b) Where the land is subject to section 24 of the Federal Power Act, BLM will issue the license subject to terms and conditions requested by the Federal Energy Regulatory Commission.

§ 3273.13 Are any lands not available for geothermal site licenses?

BLM may not issue a site license for lands that are not available for geothermal leasing. A list of these lands is set out at 43 CFR 3201.11.

§ 3273.14 What area does a site license include?

The site license area will, as determined by BLM, be a reasonably compact tract of Federal land limited to as much of the surface as is necessary for the adequate utilization of geothermal resources.

§ 3273.15 What information must I include in my site license application?

Your site license application must include :

(a) A description of the boundaries and the area of the land applied for, as determined by a certified licensed surveyor, along with a description of the land by legal subdivision, section, township and range, or by approved protraction surveys, if applicable;

(b) A non-refundable fee of $50;

(c) A site license bond;

(d) The first year's rental, if applicable (see 43 CFR 3273.16);

(e) A copy of the joint utilization agreement, when required (see 43 CFR 3274.10);

(f) A description of the proposed facility, including any substations, indicating whether you intend to interconnect your proposed facility with other facilities and to sell the energy you produce to others or use it yourself; and

(g) A statement showing the amount of merchantable timber, if any, that you will use or destroy by constructing your facility, and a statement agreeing to deposit with BLM, in advance of construction, the stumpage value of the timber to be used or destroyed. BLM will determine the value, which will not exceed fair market value.

§ 3273.16 What is the annual rental for a site license or direct use facility?

The annual site license area rental will be determined by BLM and will be set forth in your approved site license. The amount will be not less than $100 per acre or fraction thereof for an electrical generation facility or direct use area and not less than $10 per acre or fraction thereof for a facility for non-electrical purposes. You must submit the first year's rental to BLM. All subsequent rental payments must be made to MMS.

§ 3273.17 Can BLM reassess the annual rental for my site license?

Yes. The site license will contain a provision permitting BLM to reassess the rental for lands covered by the license beginning with the tenth year and then in ten-year intervals.

§ 3273.18 Must all facility operators pay the annual site license rental?

No. A lessee siting a unitization facility on his or her lease, or a unit operator siting a utilization facility on leases committed to his or her unit, need not pay the annual rental. Only a facility operator other than a lessee or unit operator must pay the annual rental.

§ 3273.19 What are the bonding requirements for a site license?

(a) Before BLM issues a site license for an electrical generation facility, the facility operator must submit a surety or personal bond of at least $100,000. BLM can waive this requirement if we determine that any nonelectrical uses are unlikely to cause significant environmental harm.

(b) Before BLM issues a site license for a direct use facility, the facility operator must furnish BLM with a surety or personal bond in an amount specified by BLM.

(c) In either case, the terms of the bond must provide for compliance with conditions of the site license, lease terms, and the regulations of this part.

§ 3273.20 What are my obligations under the site license?

As the facility operator, you:

(a) Are liable for all damages to the lands or property of the United States caused by yourself, your employees or contractors or employees of such contractors;

(b) Must indemnify the United States against any liability for damages or injury to persons or property arising from the occupancy or use of the lands authorized under the site license; and

(c) Must remove any structure(s) and restore any surface disturbance, when no longer needed during facility construction or operation. This will also include the utilization facility if you are unable to operate the facility and BLM determines that you are not diligent in your efforts to return the facility to operation.

§ 3273.21 How long will my site license remain in effect?

BLM will grant a site license for a primary term of 30 years, independent of the term of the lease on which the facility is sited. The site license will remain in effect as long as you use Federal geothermal resources in a diligent manner and you are complying with all provisions of the license. Should the lease on which the site license is located expire or terminate, you may apply to convert the authority for the facility siting to a permitted facility under the provisions of section 501 of FLPMA, 43 U.S.C. 1761, if the lands are located on BLM-managed lands. For all other lands, you must obtain authorization to continue using the surface for the facility siting from the appropriate surface management agency, unless that continuing authorization has already been granted by the surface management agency.

§ 3273.22 May BLM terminate my site license?

Yes, BLM may terminate your site license by written order for any of the following reasons:

(a) BLM may terminate your site license for any violation of the license terms and conditions, lease terms, applicable laws and regulations, geothermal resources operational orders and conditions of the plan of utilization, utilization permit, and/or production permit, including any conditions, after a 30 day notice. The termination will not take effect if, within the 30 day notice period, you correct the violation or BLM determines the violation can not be corrected within 30 days and you initiate and continue diligent efforts to correct the violation.

(b) BLM may also terminate your site license if we determine you are no longer diligently utilizing Federal geothermal resources.

§ 3273.23 May I relinquish my site license?

Yes. You may relinquish your license by submitting a written notice for BLM review and approval. BLM will not approve the relinquishment until the conditions or requirements identified in 43 CFR 3273.20 are met.

§ 3273.24 May I assign or transfer my site license?

Yes. You may transfer your site license in whole or in part. You must submit any transfer to BLM for approval, along with a $50 filing fee. Your application for transfer must include a written statement from the person or entity to whom you are transferring the license that they are qualified to hold a lease under 43 CFR 3201.11, and a written statement that they will comply with all terms and conditions of the license. The transfer is not valid until BLM approves it.

§ 3273.25 What if my site license application involves lands under the jurisdiction of another agency?

BLM will consult with and obtain the consent of the appropriate surface management agency prior to issuing the site license.

Subpart 3274—Submitting a Joint Utilization Agreement

§ 3274.10 What is the purpose of a joint utilization agreement?

A joint utilization agreement documents that:

(a) A lessee or unit operator is allowing a third party to occupy the lease or unit for facility construction and operation of a utilization facility, when the facility is located on Federal land leased for geothermal resources.

(b) You do not need a joint utilization agreement when a site license is not required.

§ 3274.11 Which parties must sign the joint utilization agreement?

Any third part facility operator must sign. Additionally,

(a) If the utilization facility is located on a Federal lease not committed to a unit agreement, the Federal geothermal lessee must sign; or

(b) If the utilization facility is located on a lease committed to a unit agreement, the unit operator must sign.

Subpart 3275—Applying for and Obtaining a Production Permit

§ 3275.10 What information must I include in my application for a production permit?

The facility operator must include the following information in a production permit application:

(a) The design, specifications, observation, and calibration schedule of production, injection, and royalty meters;

(b) A schematic diagram of the utilization site or individual well indicating the location of each production and royalty meter. If the sales point is located off the utilization site, then you must provide a generalized schematic diagram of the electrical transmission or pipeline system, including the location of meters;

(c) A copy of the sales contract for the sale and/or utilization of geothermal resources;

(d) A description and analysis of reservoir, production, and injection characteristics, including the flow rates, temperatures, and pressures of each production and injection well;

(e) A schematic diagram of each production or injection well showing the wellhead configuration including meters;

(f) A schematic flow diagram of the utilization facility including, if applicable, interconnections with other facilities;

(g) A description of the utilization process in sufficient detail to enable BLM to determine if the resource will be utilized in an acceptable manner;

(h) The planned safety provisions for emergency shutdown to protect public health and safety and for protection of the environment. This should include a schedule for the testing and maintenance of safety devices;

(i) The environmental and operational parameters to be monitored during the operation of the facility and/or well(s); and

(j) Any additional information or data that BLM may require.

§ 3275.11 How will BLM review my application for a production permit?

BLM will review the documents for completeness and technical soundness and will inform you if we need additional information. BLM will ensure that your meters meet our accuracy standards.

§ 3275.12 Can I get an authorization even if I cannot prove I can operate within required standards?

Yes, but BLM may limit your authorization to operate your facility to a specified period of time. During that time, you may obtain actual facility and well data, or both, to verify that the facility can operate within environmental and operational standards. BLM may extend the permit through approval of a sundry notice.

Subpart 3276—Conducting Utilization Operations

§ 3276.10 Can I change my approved plan of utilization or production permit?

Yes. You must submit a sundry notice describing your proposed change. You may not proceed with your change until you receive BLM approval.

§ 3276.11 What are the facility operator's obligations?

(a) The facility operator must comply with BLM's orders, applicable laws and regulations, geothermal resources operational orders, notice to lessees, lease terms, the approved plan, and conditions to the approved plan or permit. You must use:

(1) Prudent operating practices to ensure the safety of life and property;

(2) Trained and competent personnel; and

(3) Properly maintained equipment and materials.

(b) You must base the design of the utilization facility siting and operation on sound engineering principles and other pertinent geologic and engineering data.

(c) You are responsible for preventing waste of or damage to geothermal and other energy and minerals resources, and unnecessary or undue degradation to the lands.

(d) You are responsible for any noncompliance resulting from any utilization related operations.

§ 3276.12 Are there environmental and safety requirements for lease operations?

Yes. The facility operator must:

(a) Perform all utilization facility operations in a workmanlike manner to:

(1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic and recreational resources;
(3) Accommodate, as much as possible, other land uses;
(4) Protect human and wildlife resources from unacceptable levels of noise;
(5) Prevent injury; and
(6) Prevent damage to property, and unnecessary or undue degradation to the lands;
(b) Monitor facility operations to address identifiable, localized environmental resources and concerns associated with the facility or lease operations;

(c) Remove or, with BLM approval, properly store all equipment and materials not in use;

(d) When no longer needed during facility construction or operation, properly abandon and reclaim any surface disturbance, as approved or prescribed by BLM; and

(e) When required by BLM, submit a contingency plan describing procedures to protect life, property, and the environment.

§ 3276.13 Are there reporting requirements for lease operations?

(a) You must notify BLM within 5 business days of when you begin commercial production and utilization.

(b) You must submit monthly reports to BLM as described below:

If...	Then...
(1) you are the operator of a lease	you must submit a monthly report of well operations for each well on your lease.
(2) you are a unit operator	you must submit a monthly report of well operations for each well in your unit.
(3) you are a facility operator	you must submit a monthly report of facility operations.
(4) you are both a lease or unit operator and the facility operator	you must submit a monthly report of well operations for your lease or unit, and you must submit a monthly report of facility operations. You may combine all the information into one report.

(c) You must submit monthly reports due to BLM by the end of the month following the month that the report covers. For example, the report covering the month of July is due by August 31.

§ 3276.14 What information must be included for each well in monthly well reports?

Include the following information for each well in the monthly report of well operations:
(a) Any drilling operations or changes made to a well;
(b) Total production or injection in thousands of pounds (klbs);
(c) Production or injection temperature in degrees Fahrenheit (°F);
(d) Production or injection pressure in pounds per square inch (psi). You must also specify whether this is gauge pressure (psig) or absolute pressure (psia);
(e) The number of days the well was producing or injecting;
(f) The well status at the end of the month;
(g) The amount of steam or hot water lost to venting or leakage;
(h) The lease number or unit the well is located on;
(i) The month and year the report is for;
(j) Your name, title, signature, and a phone number where BLM may contact you; and
(k) Any other information the BLM may require.

§ 3276.15 What information must be included in the monthly report for generation facilities?

For all electrical generation facilities, include the following information in your monthly facility report:
(a) Mass of steam and/or hot water into the facility in thousands of pounds (klbs). For facilities using both steam and hot water, you must report the mass of each;
(b) The temperature of the steam or hot water in degrees Fahrenheit (°F);
(c) The pressure of the steam or hot water in pounds per square inch (psi). You must also specify whether this is gauge pressure (psig) or absolute pressure (psia);
(d) Gross generation in kiloWatt hours (kWh);
(e) Net generation at the tailgate of the facility in kiloWatt hours (kWh);
(f) Amount of electricity delivered to the sales point in kiloWatt-hours (kWh), if the sales point is different from the tailgate of the facility;
(g) Amount of electricity lost to transmission, if applicable;
(h) Temperature in degrees Fahrenheit (°F) and volume of the steam or hot water exiting the facility;
(i) The number of hours the plant was on line; and
(j) A brief description of any outages.

§ 3276.16 What additional information must be submitted in the monthly report for flash and dry facilities?

You must submit the following information in addition to that specified in 43 CFR 3276.15 for flash and dry steam facilities:
(a) Steam flow into the turbine in thousands of pounds (klbs); for dual flash facilities, you must separate the steam flow into high pressure steam and low pressure steam;
(b) Condenser pressure in pounds per square inch absolute (psia);
(c) Condenser temperature in degrees Fahrenheit (°F);
(d) Auxiliary steam flow used for gas ejectors, steam seals, pumps, etc., in thousands of pounds (klbs);
(e) Flow of condensate out of the plant (after the cooling towers) in thousands of pounds (klbs); and
(f) Any other information BLM may require.

§ 3276.17 What information must be included in the monthly report for direct use facilities?

For direct use facilities, submit the following information:
(a) A daily breakdown of flow, average temperature in, and average temperature out, in degrees Fahrenheit (°F);
(b) Total monthly flow through the facility in thousands of gallons (kgal) or thousands of pounds (klbs);
(c) Monthly average temperature in, in degrees Fahrenheit (°F);
(d) Monthly average temperature out, in degrees Fahrenheit (°F);
(e) Total heat used in millions of BTU's (MMBTU);
(f) Number of hours that geothermal heat was used; and
(g) Any other information BLM may require.

§ 3276.18 Does the facility operator have to measure the geothermal resources?

Yes. You must:
(a) Measure all production, injection and utilization in accordance with methods and standards approved by BLM; and
(b) Maintain and test all metering equipment, and if BLM finds the equipment out of tolerance or defective, you must promptly recalibrate, repair, or replace it. You must determine the amount of production and/or utilization

in accordance with the methods and procedures approved and prescribed by BLM.

§ 3276.19 What aspects of my geothermal operation must I measure?

(a) For all well operations, you must measure wellhead flow, wellhead temperature, and wellhead pressure.

(b) For all electrical generation facilities, you must measure:

(1) Steam and/or hot water flow into the facility;

(2) Temperature of the water and/or steam into the facility;

(3) Pressure of the water and/or steam into the facility;

(4) Gross electricity generated;

(5) Net electricity at the facility tailgate;

(6) Electricity delivered to the sales point; and

(7) Temperature of the steam and/or hot water exiting the facility.

(c) For direct use facilities, you must measure:

(1) Flow of steam and/or hot water;

(2) Temperature into the facility; and

(3) Temperature out of the facility.

(d) BLM may also require additional measurements depending on the type of facility, the type and quality of the resource, and the terms of the sales contract.

§ 3276.20 How accurately must I measure my production and utilization?

The meter accuracy that BLM requires depends on whether you use the meter in calculating Federal production or royalty and what quantity of resource you are measuring.

(a) For meters that you will use to calculate Federal royalty:

(1) If the meter measures electricity, it must have an accuracy of ±0.25% or better of reading;

(2) If the meter measures steam flowing more than 100,000 lbs/hr. on a monthly basis, it must have an accuracy of ±2% or better of reading;

(3) If the meter measures steam flowing less than 100,000 lbs/hr on a monthly basis, it must have an accuracy of ±4% or better of reading;

(4) If the meter measures water flowing more than 500,000 lbs/hr on a monthly basis, it must have an accuracy of ±2% or better of reading;

(5) If the meter measures water flowing 500,000 lbs/hr or less on a monthly basis, it must have an accuracy of ±4% or better of reading;

(6) If the meter measures heat content, it must have an accuracy of ±4% or better; or

(7) If the meter measures two phase flow at any rate, BLM will determine meter accuracy requirements. However, such meters are generally not allowable, and you must obtain the prior written approval of BLM before installation and use.

(b) Any meters that you do not use to calculate Federal royalty are considered production meters. Any production meter must maintain an accuracy of ±5% or better of reading.

(c) BLM may modify these requirements as necessary to protect the interests of the United States.

§ 3276.21 To what standards must I install and maintain my meters?

(a) You must install and maintain all meters required by BLM according to the manufacturer's recommendations and specifications or BLM's requirements, whichever is more restrictive.

(b) If you use an orifice plate to calculate Federal royalty, the orifice plate installation must comply with ''API Manual of Petroleum Standards, Chapter 14, Section 3, Part 2, Third Edition, February, 1991''.

(c) For meters used to calculate Federal royalty, you must calibrate the meter against a known standard as specified in paragraphs (c) (1) through (3) of this section:

(1) Meters measuring electricity must be calibrated annually;

(2) Meters measuring steam or hot water flow with a turbine, vortex shedder, ultrasonics, or other linear devices, must be calibrated every six months, or as recommended by the manufacturer, whichever is more frequent; and

(3) Meters measuring steam or hot water flow with an orifice plate, venturi, pilot tube, or other differential device, must be calibrated every month and you must inspect and repair the primary device (orifice plate, venturi, pitot tube) annually.

(d) You must use calibration equipment that is more accurate than the equipment you are calibrating.

(e) BLM may modify any of these requirements as necessary to protect the interests of the United States.

§ 3276.22 What must I do if I find an error in a meter?

(a) If the meter is used to calculate Federal royalty, you must correct the error immediately and notify BLM by the next working day of its discovery.

(b) If the meter is not used to calculate Federal royalty, you must correct the error and notify BLM within three days of its discovery.

(c) If correcting the error will cause a change in the sales quantity of more than 2% for the month(s) in which the error occurred, you must adjust the sales quantity for that month(s) and submit an amended facility report to BLM within 3 working days.

§ 3276.23 May BLM require me to test for byproducts associated with the production of geothermal resources?

Yes. You must conduct any tests required by BLM.

§ 3276.24 May I commingle production?

Yes, if you obtain BLM's prior approval. BLM will review your request to commingle production from wells on your lease with production from other leases held by you or other lessees and may grant approval subject to conditions we prescribe.

§ 3276.25 What action will BLM take if I waste geothermal resources?

BLM will make a determination on the amount of production lost through waste of the geothermal resource. If BLM determines that you have not taken all reasonable precautions to prevent waste of geothermal resources, we will require compensation based on the value of the lost production. BLM may also terminate your site license.

§ 3276.26 Can BLM order me to drill and produce wells on my lease?

Yes. BLM can order you to promptly drill and produce any wells necessary to ensure that lease development and production occur in accordance with sound operating practices.

Subpart 3277—Inspections, Enforcement, and Noncompliance

§ 3277.10 Will BLM inspect my operations?

Yes. All operations are subject to inspection by BLM to ensure compliance with permit terms and conditions of approval, lease terms and conditions, orders, and notices to lessees, applicable regulations and laws. During normal operating hours, you must allow BLM to inspect all facilities utilizing Federal geothermal resources.

§ 3277.11 What records must I keep available for inspection?

The operator or facility operator must keep all records and information pertaining to royalty and production meters available for BLM inspection for a period of at least six years from the time of collection. This includes records and information from meters located off your lease or unit when such records or information are necessary to determine resource production to a utilization facility or the allocation of resource production to your lease or unit.

§ 3277.12 What actions may BLM take if I am in noncompliance?

(a) If BLM finds your operation to be in noncompliance, we may take the following action:

(1) Issue you a written Incident of Noncompliance, directing you to correct any deficiencies within a specific time period;

(2) Require you to mitigate unacceptable environmental impacts caused by your operation; or

(3) Revoke or suspend your utilization permit, after notice and a hearing in accordance with 43 CFR parts 4 and 1840.

(b) If the noncompliance continues or is of a serious nature, BLM will take one of the following actions:

(1) Enter your lease, and correct any deficiencies at your expense;

(2) Collect all or part of your bond;

(3) Direct modification or shutdown of your operations;

(4) Temporarily suspend your utilization permit if necessary to protect public health, safety or the environment. This temporary suspension will go into effect immediately, and remain in effect while any appeals are pending; or

(5) Initiate cancellation of the lease.

Subpart 3278—Utilization Relief and Appeals

§ 3278.10 May I request a variance from notices to lessees, permit conditions of approval, and operational and other orders issued by BLM?

Yes.

(a) Your request must include enough information to explain:

(1) Why the notice to lessees, permit condition of approval, geothermal resource operational order, or other orders issued by BLM cannot be met; and

(2) Why the variance is necessary to control your well, conserve natural resources, protect human health and safety, protect property, or protect the environment.

(b) BLM may approve your request verbally or in writing. We will follow up a verbal approval with written confirmation.

§ 3278.11 Can I appeal a BLM decision regarding my utilization operations?

You may file an appeal with BLM in accordance with the procedures of 43 CFR parts 4 and 1840.

[FR Doc. 96–25254 Filed 10–7–96; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[WT Docket No. 96–188; FCC 96–375]

Authorization of Visiting Foreign Amateur Operators to Operate Stations in the United States

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the amateur service rules to authorize citizens of certain countries in Europe and the Americas to operate stations while on short visits in the United States by facilitating implementation of two pending international reciprocal operating arrangements—European Conference of Postal and Telecommunications Administrations (CEPT) radio-amateur license and the Inter-American Convention on an International Amateur Radio Permit (CITEL/Amateur Convention). It is necessary so that U.S. amateur operators can operate in twenty-two European countries, eight South American countries, Mexico, and Honduras, and so that operators from those countries can operate their amateur stations in places where the amateur service is regulated by the Commission. The effect of the action will be to provide a convenient procedure for tourists, conference attendees, students, and professors whereby they can operate their amateur stations while visiting in the United States.

DATES: Comments are due on or before December 13, 1996. Reply Comments are due on or before January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Wireless Telecommunications Bureau, Washington, DC 20554, (202) 418–0690.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, adopted September 9, 1996, and released September 20, 1996. The complete text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this Notice of Proposed Rule Making may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 2100 Street, NW., Suite 140, Washington, DC 20037, Telephone number (202) 857–3800.

Summary of Notice of Proposed Rule Making

1. There are two pending reciprocal operating arrangements that will provide convenient ways for foreign amateur operators to operate stations in the United States. They are the European Conference of Postal and Telecommunications Administrations (CEPT) radio-amateur license and the Inter-American Convention on an International Amateur Radio Permit (CITEL/Amateur Convention).

2. With the United States as a participating non-CEPT country, citizens of our country could operate amateur stations temporarily in participating European countries, and their citizens could enjoy similar operating privileges in the United States.

3. The CITEL/Amateur Convention is an arrangement for countries in the Americas. Under the CITEL/Amateur Convention, individual amateur operators with an International Amateur Radio Permit (IARP) would have reciprocal operating privileges in each other's countries. The American Radio Relay League, Inc. (ARRL) has offered its services to the Department of State to issue IARPs on a non-discriminatory basis, at no cost, charge, or expense to the United States Government.

4. Under a CEPT radio-amateur license or an IARP, we do not anticipate that sophisticated station operations, such as beacon, repeater, or auxiliary station operations would be attempted. In addition, our rules do not permit these two new categories of licensees/permittees to engage in such sophisticated operations.

5. Citizens of European countries and countries in the Americas, such as tourists, students, professors, and conference attendees would benefit from the proposed convenient procedures. Likewise, United States citizens who travel in Europe or in the Americas for short visits would similarly benefit.

6. Comments are invited on the proposal.

7. This Notice of Proposed Rule Making is issued under the authority contained in 47 U.S.C. 154(i) and 303(r).

List of Subjects in 47 CFR Part 97

Foreign visitors, Radio, Treaties.

Federal Communications Commission

LaVera F. Marshall,

Acting Secretary.

Proposed Rules

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. §§ 151–155, 301–609, unless otherwise noted.

2. Section 97.3 is amended by redesignating paragraphs (a)(12) through (a)(23) and paragraphs (a)(24) through (a)(46) as paragraphs (a)(13) through (a)(24) and paragraphs (a)(26) through (a)(48) and by adding new paragraphs (a)(12) and (a)(25) to read as follows:

§ 97.3 Definitions.

(a) * * *

(12) *CEPT radio-amateur license.* A license issued by a country belonging to the European Conference of Postal and Telecommunications Administrations (CEPT) that has adopted Recommendation T/R 61–01 (Nice 1985, revised in Paris 1992 and by correspondence August 1992).

* * * * *

(25) *IARP.* International Amateur Radio Permit. A document issued pursuant to the terms of the Inter-American Convention on an International Amateur Radio Permit by a country signatory to that Convention, other than the United States. Montrouis, Haiti. AG/doc.3216/95.

* * * * *

3. Section 97.5 is amended by adding new paragraphs (c)(3) and (c)(4) to read as follows:

§ 97.5 Station license required.

* * * * *

(c) * * *

(3) A CEPT radio-amateur license issued to the person by the country of which the person is a citizen. The person must not:

(i) Be a resident alien or citizen of the United States, regardless of any other citizenship also held;

(ii) Hold an FCC-issued amateur operator license nor reciprocal permit for alien amateur licensee;

(iii) Be a prior amateur service licensee whose FCC-issued license was revoked, suspended for less than the balance of the license term and the suspension is still in effect, suspended for the balance of the license term and relicensing has not taken place, or surrendered for cancellation following notice of revocation, suspension or monetary forfeiture proceedings; or

(iv) Be the subject of a cease and desist order that relates to amateur service operation and which is still in effect.

(4) An IARP issued to the person by the country of which the person is a citizen. The person must not:

(i) Be a resident alien or citizen of the United States, regardless of any other citizenship also held;

(ii) Hold an FCC-issued amateur operator license nor reciprocal permit for alien amateur licensee;

(iii) Be a prior amateur service licensee whose FCC-issued license was revoked, suspended for less than the balance of the license term and the suspension is still in effect, suspended for the balance of the license term and relicensing has not taken place, or surrendered for cancellation following notice of revocation, suspension or monetary forfeiture proceedings; or

(iv) Be the subject of a cease and desist order that relates to amateur service operation and which is still in effect.

* * * * *

4. In § 97.7, new paragraphs (c) and (d) are added to read as follows:

§ 97.7 Control operator required.

* * * * *

(c) A CEPT radio-amateur license issued to the person by the country of which the person is a citizen. The person must not:

(1) Be a resident alien or citizen of the United States, regardless of any other citizenship also held;

(2) Hold an FCC-issued amateur operator license nor reciprocal permit for alien amateur licensee;

(3) Be a prior amateur service licensee whose FCC-issued license was revoked, suspended for less than the balance of the license term and the suspension is still in effect, suspended for the balance of the license term and relicensing has not taken place, or surrendered for cancellation following notice of revocation, suspension or monetary forfeiture proceedings; or

(4) Be the subject of a cease and desist order that relates to amateur service operation and which is still in effect.

(d) An IARP issued to the person by the country of which the person is a citizen. The person must not:

(1) Be a resident alien or citizen of the United States, regardless of any other citizenship also held;

(2) Hold an FCC-issued amateur operator license nor reciprocal permit for alien amateur licensee;

(3) Be a prior amateur service licensee whose FCC-issued license was revoked, suspended for less than the balance of the license term and the suspension is still in effect, suspended for the balance of the license term and relicensing has not taken place, or surrendered for cancellation following notice of revocation, suspension or monetary forfeiture proceedings; or

(4) Be the subject of a cease and desist order that relates to amateur service operation and which is still in effect.

5. In § 97.107, paragraph (c) is revised and new paragraphs (d) and (e) are added to read as follows:

§ 97.107 Alien control operator privileges.

* * * * *

(c) The privileges available to a control operator holding a valid CEPT radio-amateur license are as specified in sections 97.207, 97.209, 97.211, 97.213, 97.215, 97.219, and 97.221 of subpart C of this part, and in Section 97.301 of subpart D of this part, provided the holder:

(1) Complies with the terms of the agreement between the CEPT and the United States;

(2) Is not a resident alien or citizen of the United States;

(3) Has not been in any area where radio services are regulated by the FCC for more than 180 days within the immediately preceding five years;

(4) Does not hold an FCC-issued operator/primary station license grant; and

(5) Does not hold an FCC-issued reciprocal permit.

(d) The privileges available to a control operator holding a valid IARP are as specified in sections 97.207, 97.209, 97.211, 97.213, 97.215, 97.219, and 97.221 of subpart C of this part, and in Section 97.301 of subpart D of this part, provided the holder:

(1) Complies with the terms and conditions of the *Inter-American Convention on an International Amateur Radio Permit (AG/doc.3216/95)*;

(2) Is not a resident alien or citizen of the United States;

(3) Has not been in any area where radio services are regulated by the FCC for more than 180 days within the immediately preceding five years;

(4) Does not hold an FCC-issued operator/primary station license grant; and

(5) Does not hold an FCC-issued reciprocal permit.

(e) At any time the FCC may, in its discretion, modify, suspend, or cancel the reciprocal permit for alien amateur licensee, or the amateur service privileges of any Canadian amateur service licensee, CEPT radio-amateur licensee or IARP permittee within or over any area where radio services are regulated by the FCC.

6. § 97.119, paragraph (f) is revised to read as follows:

§ 97.119 Station identification.

* * * * *

(f) When the station is transmitting under the authority of a reciprocal permit for alien amateur licensee, a CEPT radio-amateur license, or an IARP, an indicator consisting of the appropriate letter-numeral designating the station location must be included before, after, or both before and after, the call sign issued to the station by the licensing country. When the station is transmitting under the authority of an amateur service license issued by the Government of Canada, the station location indicator must be included after or both before and after the call sign. At least once during each intercommunication, the identification announcement must include the geographical location as nearly as possible by city and state, commonwealth or possession.

7. In § 97.301, the introductory texts of paragraphs (a) and (b) are revised to read as follows:

§ 97.301 Authorized frequency bands.

* * * * *

(a) For a station having a control operator who has been granted a Technician, Technician Plus, General, Advanced, or Amateur Extra Class operator license or who holds a CEPT radio-amateur license or IARP of any class:

* * * * *

(b) For a station having a control operator who has been granted an Amateur Extra Class operator license or who holds a CEPT radio-amateur license Class 1 license or Class 1 IARP:

* * * * *

[FR Doc. 96–25425 Filed 10–07–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

Consumer Information Regulations

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the request for public comments on proposed collections of information, which was published Wednesday, August 28, 1996 (61 FR 44391). The regulations related to the information reporting requirements for consumer information contained in 49 CFR Part 575 sections 575.103 and 575.105.

DATES: Comments must be received on or before October 28, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Kosek (202) 366–2590 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background:

Reinstatement of OMB Clearance for 49 CFR Part 575—Consumer Information Regulations. NHTSA must ensure that motor vehicle manufacturers comply with 49 CFR Part 575, Consumer Information Regulation Part 575.103—Truck camper loading and Part 575.105—Utility Vehicles.

List of Subjects in 49 CFR Part 575

Truck-camper loading, Utility vehicles, Reporting and recordkeeping requirements.

Accordingly, the notice is corrected by revising the following text to include information that was inadvertently omitted:

Description of the need for the information and proposed use of the information—In order to ensure that motor vehicle manufacturers are complying with 49 CFR Part 575, NHTSA needs consumer information from manufacturers of new light trucks and utility vehicles before this information is distributed to prospective purchasers and first purchasers of a vehicle. For each report, the manufacturer will provide technical information related to performance and safety of light trucks and utility vehicles.

For truck-camper loading, the information provided may be used to reduce overloading and improper load distribution in truck-camper combinations, in order to prevent accidents resulting from the adverse effects of these conditions on vehicle steering and braking.

For utility vehicles, the information provided is used to alert drivers that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when those vehicles are operated on paved roads.

Description of the likely respondents (including estimated number, and proposed frequency of response to the collection of information)—NHTSA anticipates that no more than 15 vehicle manufacturers will be affected by the reporting requirements. NHTSA does not believe any of these 15 motor vehicle manufacturers are small businesses (i.e., manufacturers that employ less than 500 persons), since each manufacturer employs more than 500 persons. Manufacturers of light trucks and utility vehicles must file one response annually, which may be amended only if the information changes as a result of a new model being introduced.

Issued on: September 23, 1996.

L. Robert Shelton,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 96–25778 Filed 10–07–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[I.D. 093096C]

Atlantic Offshore Cetacean Take Reduction Plan; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public scoping meeting; request for comments.

SUMMARY: NMFS announces its intention to begin scoping for the preparation of an Environmental Impact Statement (EIS) or Environmental Assessment (EA) for anticipated proposed rulemaking under the Take Reduction Plan provisions of the Marine Mammal Protection Act (MMPA). The intended effect is to reduce the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

DATES: The scoping meeting will be held on October 22, 1996, from 7 p.m. until 10 p.m. Written comments on the scope of the EIS or EA must be submitted by November 23, 1996.

ADDRESSES: The scoping meeting will be held at the Inn at the Crossing, 801 Greenwich Avenue, Warwick, RI 02886, (401) 732–6000. Scoping comments and requests for additional information should be sent to Doug Beach, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–2298, fax (508) 281–9301.

FOR FURTHER INFORMATION CONTACT: Doug Beach, (508) 281–9254, fax (508) 281–9301, or Victoria Cornish, (301) 713–2322, fax (301) 713–0376.

SUPPLEMENTARY INFORMATION: Section 118(f) of the MMPA requires NMFS to develop and implement a Take Reduction Plan that is intended to assist in the recovery or that prevents the depletion of each strategic marine mammal stock(s) that interacts with

certain fisheries. The immediate goal of the plan is to reduce, within 6 months of its implementation, the incidental mortality or serious injury of strategic marine mammals incidentally taken in the course of commercial fishing to levels less than the Potential Biological Removal (PBR) level established for that stock. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing state or regional fishery management plans.

Each plan shall include a review of the information in the final stock assessment published under section 117(b) and any new information; an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations; recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury; and recommended dates for achieving the specific objectives of the plan.

In accordance with section 118(f)(6)(A), NMFS established the Atlantic Offshore Cetacean Take Reduction Team (TRT) for the U.S. Atlantic large pelagics drift gillnet, pair trawl, and longline fisheries on May 23, 1996 (61 FR 25846). All three fisheries interact with the following strategic marine mammal stocks: long-finned and short-finned pilot whales and the offshore stock of bottlenose dolphin. The U.S. Atlantic large pelagics pair trawl fishery also interacts with common dolphins and unidentified stocks of beaked whales, and the U.S. Atlantic large pelagics drift gillnet fishery also interacts with common dolphins, Cuvier's beaked whales, True's beaked whales, Gervais' beaked whales, Blaineville's beaked whales, Sowerby's beaked whales, Atlantic spotted dolphins, Pantropical spotted dolphins, Atlantic white-sided dolphins, and three species of endangered large whales: the humpback whale, the northern right whale, and the sperm whale. These stocks are considered strategic under the MMPA because they are either listed as an endangered or threatened species under the Endangered Species Act or because the levels of human-caused mortality are greater than their PBR levels.

A draft plan will be developed by the Atlantic Offshore Cetacean TRT and will be forwarded to NMFS by November 23, 1996. NMFS then has 60 days to publish a proposed plan, along with any proposed implementing regulations, as necessary.

The purpose of the scoping meeting is to receive comments in anticipation of an EIS or EA that may be prepared for the final plan and any regulations that may be necessary to implement the provisions of the plan. Any EIS or EA prepared would examine the environmental impacts of management alternatives considered in the plan to reduce the incidental mortality and serious injury of marine mammals in this fishery, as well as assessing, based on currently available information, the impacts of the plan and implementing regulations on the human environment, marine mammals, and other protected species in accordance with the National Environmental Policy Act.

The scoping meeting is scheduled to coincide with the second day of the last meeting of the TRT on October 21 - 22, 1996. All interested parties are encouraged to attend. The scoping meeting will include a short presentation from NMFS staff outlining the take reduction plan process and options that are being considered and will allow a minimum of 2 1/2 hours for public comment. NMFS is also requesting written comments to be submitted by mail or by fax, until November 23, 1996, and background materials are available (see **ADDRESSES**). The meeting is open to the public and is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Doug Beach at (508) 281–9254 by October 14, 1996.

Authority: 16 U.S.C. 1361 et seq.

Dated: October 3, 1996.

Patricia Montanio,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–25800 Filed 10–7–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 196
Tuesday, October 8, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV–96–901–1]

Notice of Request for Approval of a Generic Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval for a generic information collection that will combine several individual marketing order information collections into one.

DATES: Comments on this notice must be received by December 9, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Shoshana Avrishon, Marketing Specialist, USDA–AMS–F&V—Marketing Order Administration Branch, P.O. Box 96456, Washington, DC 20090–6456. Tel.: (202) 720–6467, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION:

Title: Marketing Orders for Vegetables and Specialty Crops.

OMB Number: Number not assigned yet.

Expiration Date of Approval: Three years from date of approval.

Type of Request: Approval for a generic information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruit, vegetables, and specialty crops, in specified production areas, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality products for consumers and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the marketing order programs. Under the Act, orders may authorize the following: production and marketing research including paid advertising, volume regulations, reserves including pools and producer allotments, container regulations, and quality control. Production and marketing research activities are paid for by assessments levied on handlers regulated under the marketing orders.

Under the marketing orders, producers and handlers are nominated by their respective peers. These nominees then serve as representatives on their respective committees/boards and must file nomination forms with the Secretary.

Formal rulemaking amendments to the orders must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of these marketing order programs. Handlers are asked to sign an agreement to indicate their willingness to abide by the provisions of the respective orders whenever an order is amended.

This information collection will combine: OMB#0581–0069 Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, Marketing Order 945; OMB#0581–0070 Irish Potatoes Grown in Washington, Marketing Order 946; OMB#0581–0112 Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in all Counties in Oregon, except Malheur County, Marketing Order 947; OMB#0581–0111 Potatoes Grown in Colorado, Marketing Order 948; OMB#0581–0084 Irish Potatoes Grown in Southeastern United States, Marketing Order 953; OMB#0581–0160 Vidalia Onions Grown in Georgia, Marketing Order 955; OMB#0581–0172 Sweet Onions Grown in the Walla Walla Valley of Southeastern Washington and Northeastern Oregon, Marketing Order 956; OMB#0581–0087 Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, Marketing Order 958; OMB#0581–0074 Onions Grown in South Texas, Marketing Order 959; OMB#0581–0073 Tomatoes Grown in Florida, Marketing Order 966; OMB#0581–0076 Melons Grown in South Texas, Marketing Order 979; OMB#0581–0144 Hazelnuts Grown in Oregon and Washington, Marketing Order 982; OMB#0581–0090 Walnuts Grown in California, Marketing Order 984; OMB#0581–0077 Domestic Dates Produced or Packed in Riverside County, California, Marketing Order 987; OMB#0581–0083 Raisins Produced from Grapes Grown in California, Marketing Order 989; and, OMB#0581–0099 Dried Prunes Produced in California, Marketing Order 993.

The forms covered under this information collection will continue to require the minimum information necessary to effectively carry out the requirements of the orders, and their use is necessary to fulfill the intent of the Act as expressed in the orders.

The information collected is used only by authorized employees of the committees/boards and authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarter's staff. Authorized committee/board employees are the primary users of the information and the AMS is the secondary user.

Estimate Burden Hours: 9,741.

Estimated Number of Respondents: 14,100.

Estimated Number of Responses per Respondents: 8.

Estimated Total Annual Burden on Respondents: 40 minutes.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on those who respond, including use of automated,

electronic, mechanical, or other technologies.

Comments should reference this docket number and the appropriate marketing order, and be mailed to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, D.C. 20090–6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Ave. S.W., Washington, D.C., Room 2523 South Building.

All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

Dated: October 2, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–25703 Filed 10–7–96; 8:45 am]

BILLING CODE 3410–02–P

[DA–96–14]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for the Dairy Inspection and Grading Program.

DATES: Comments must be received by December 9, 1996 to be assured consideration.

ADDRESSES: Comments should be sent to: Office of the Director, USDA/AMS/Dairy Division, Room 2968–S, P.O. Box 96456, Washington, D.C. 20090–6456. Comments received will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: F. Tracy Schonrock, USDA/AMS/Dairy Division, Dairy Grading Branch, Room 2750–South Building, P.O. Box 96456, Washington, D.C. 20090–6456; Tel: (202) 720–3171, Fax (202) 720–2643.

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Record Keeping. OMB Number: 0581–0110.

Expiration Date of Approval: March 31, 1997.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act (AMA) of 1946 directs the Department to develop programs which will provide and enable a more orderly marketing of agricultural products. One of these programs is the USDA voluntary inspection and grading program for dairy products where these dairy products are graded according to U.S. grade standards by a USDA grader. The dairy products so graded may be identified with the USDA grade mark. Dairy processors, buyers, retailers, institutional users, and consumers have requested that such a program be developed to assure the uniform quality of dairy products purchased. In order for any service program to perform satisfactorily, there must be written guides and rules, which in this case are regulations for the provider and user. For the above reasons, these regulations were developed and issued under the authority of the Act. These regulations are essential to administer the program to meet the needs of the user and to carry out the purposes of the Act.

The information collection requirements in this request are essential to carry out the intent of the AMA, to insure that dairy products are produced under sanitary conditions and that buyers are purchasing a quality product. In order for the Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products to serve the government, industry, and the consumer, laboratory test results must be recorded.

Respondents are not required to submit information to the agency. The records are to be evaluated by a USDA inspector at the time of an inspection. As an off-setting benefit, the records required by USDA are also records which are routinely used by the inspected facility for their own supervisory and quality control purposes.

Estimate of Burden: Public reporting burden for this Record keeping is estimated to average 3.002 hours per year per individual record keeper.

Record Keepers: Dairy products manufacturing facilities.

Estimated Number of Record Keepers: 508.

Estimated Total Annual Burden on Record Keepers: 1525 hours.

Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency; (2) the accuracy of the collection burden estimate and the validity of the methodology and assumptions used in estimating the burden on record keepers; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

Comments should reference OMB No. 0581–0110 and the Dairy Inspection and Grading Program, and be sent to USDA in care of the Office of the Director, USDA/AMS/Dairy Division, Room 2968–S, P.O. Box 96456, Washington, D.C. 20090–6456. Comments received will be available for public inspection at this location during regular business hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: September 26, 1996.

Richard M. McKee,

Director, Dairy Division.

[FR Doc. 96–25705 Filed 10–07–96; 8:45 am]

BILLING CODE 3410–02–P

[CN–96–006]

Cotton Research and Promotion Program: Determination of Whether To Conduct a Referendum Regarding 1990 Amendments to the Cotton Research and Promotion Act

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Department's view, based on a review by the Agricultural Marketing Service (AMS), that it is not necessary to conduct a referendum among producers and importers on continuation of the 1990 amendments to the Cotton Research and Promotion Act. The 1990 amendments require the Secretary of Agriculture, once every five years, to conduct a review to determine whether to hold a referendum. The two major changes to the Cotton Research and Promotion Program made by the 1990 amendments were the elimination of assessment refunds to producers and a new assessment levied on imported cotton and the cotton content of imported products. Although USDA is of the view that a referendum is not needed, it will initiate a sign-up period as required by the Act, to allow cotton producers and importers to request a referendum.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, Chief, Cotton Research and Promotion Staff, Cotton

Division, AMS, USDA, Stop 0224, 1400 Independence Avenue, SW, Washington D.C., 20250–0224. Telephone number (202) 720–2259.

SUPPLEMENTARY INFORMATION: In July 1991, the Agricultural Marketing Service (AMS) implemented the 1990 amendments to the Cotton Research and Promotion Act. These amendments provided for: (1) importer representation on the Cotton Board by an appropriate number of persons to be determined by the Secretary who import cotton or cotton products into the U.S., and are selected by the Secretary from nominations submitted by importer organizations certified by the Secretary; (2) assessments levied on imported cotton and cotton products at a rate determined in the same manner as for U.S. cotton; (3) increasing the amount the Secretary can be reimbursed for conduct of a referendum from $200,000 to $300,000; (4) reimbursing government agencies who assist in administering the collection of assessments on imported cotton and cotton products; and (5) terminating the right of producers to demand a refund of assessments.

Results of the July 1991 referendum showed that of the 46,220 valid ballots received; 27,879, or 60 percent of the persons voting, favored the amendments to the Order, and 18,341 or 40 percent opposed the amendments. AMS developed implementing regulations for the import assessment effective August 1, 1992, the elimination of the producer refund effective September 1, 1991, and provided for importer representation on the Cotton Board effective January 1, 1993. The addition of these new members brought the Cotton Board's membership to 25 (21 producer members and 4 importer members).

The Department has prepared a report which describes the impact of the Cotton Research and Promotion Program on the cotton industry and the views of those receiving its benefits. The report is based on a review conducted by AMS to determine whether to hold a referendum of producers and importers on continuation of the 1990 Act amendments. The review report is available upon written request to the Chief of the Cotton Research and Promotion Staff at the address provided above. Information included in the report was gathered from a variety of sources in order to develop a broad-base of opinion and data. Comments were solicited from persons who pay assessments as well as from organizations representing the cotton industry. Economic data was reviewed in order to report on the general climate of the cotton industry. Finally, a number of independent sources of information were reviewed to help identify perspectives from outside the program.

The review report cited that the 1990 amendments to the Cotton Research and Promotion Act were successfully implemented and are operating as intended. The General Accounting Office found that USDA implemented rules and regulations consistent with the intention of the 1990 Act amendments, but criticized some of the procedures USDA implemented for exemptions and reimbursements of import assessments. However, USDA addressed these concerns and considered alternatives during the implementing rulemaking process. The U.S. Trade Representative found that the framework for implementing the import assessment was consistent with trade policy.

The report also noted that there is a general consensus within the cotton industry that the Cotton Research and Promotion Program and, in particular, the import assessment and the elimination of refunds are operating as intended. Written comments, survey responses and economic data support this conclusion. Industry comments cited examples of how the additional funding has already yielded benefits by increasing the demand for cotton and by the successful introduction of new cotton apparel products.

USDA found no compelling reason to conduct a referendum regarding the 1990 Act amendments to the Cotton Research and Promotion Order although certain program participants support a referendum. Therefore, USDA will allow all eligible persons to request the conduct of a continuance referendum on the 1990 amendments through a sign-up period. The sign-up period will be conducted November 25, 1996 through February 22, 1997. Eligible producers and importers may sign-up to request such a referendum at the county office of the Farm Service Agency (FSA), or by mailing such a request to the Secretary. The Secretary will conduct a referendum if requested by 10 percent or more of the number of cotton producers and importers voting in the most recent (July 1991) referendum, with not more than 20 percent of such requests from producers in one state or importers of cotton.

Eligible producers who wish to participate in the sign-up period to request a referendum may visit the FSA county office or county agent, serving the county in which the producer's farm is located. Importers who wish to request a referendum should mail such a request to USDA, AMS, Cotton Division, Stop 0224, 1400 Independence Avenue, S.W., Washington, DC, 20250–0224. All requests must be made in person or postmarked by February 22, 1997.

The Secretary will announce the results of the sign-up period in a separate notice in the Federal Register.

Authority: 7 U.S.C. 2101–2118.

Dated: September 30, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–25704 Filed 10–07–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Quarterly Survey of the Finances of Public Employee Retirement Systems

ACTION: Proposed agency information collection activity; Comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 9, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to William C. Hulcher, Bureau of the Census, Governments Division, Washington, DC 20233–6800, (301) 457–1502.

SUPPLEMENTARY INFORMATION:

I. Abstract

This quarterly survey was initiated by the Bureau of the Census at the request of both the Council of Economic Advisors and the Federal Reserve Board. It gathers data on the assets of the 104 largest State and local government public employee retirement systems. These systems hold over three quarters of a trillion dollars in assets, which represents approximately 80 percent of all State and Local government public employee retirement system assets.

These important data are used by the Federal Reserve Board to track the public sector portion of the flow of funds accounts. The Bureau of Economic Analysis uses the data on corporate stock holdings to estimate dividends received by State and local government public employee retirement systems. These estimates, in turn, are used as a component in developing the national income and product accounts.

II. Method of Collection

This a mail canvass survey. Responses are screened manually and then entered on a microcomputer. No statistical methods are used to calculate the data. If those rare instances do occur when we are not able to obtain a response, estimates are made for nonrespondents by using:

A. Historical data for the same system
B. Latest available annual data
C. Estimates received by telephone calls to respondents

III. Data

OMB Number: 0607–0143.
Form Number: F–10.
Type of Review: Regular.
Affected Public: State and local governments.
Estimated Number of Respondents: 104.
Estimated Time Per Response: 1 hour.
Estimated Total Annual Burden Hours: 416 hours.
Estimated Total Annual Cost: The estimated cost to the respondents is $6,252.48.The estimated cost to the Federal Government is contained in the Annual Surveys of State and Local Government Finance. In total, these cost an estimated $2.8 million during FY 1996.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 U.S.C., Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 2, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–25669 Filed 10–7–96; 8:45 am]

BILLING CODE 3510–07–P

1997 Census of Governments

ACTION: Proposed Agency Information Collection Activity; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 9, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Henry Wulf or Donna Hirsch, U.S. Bureau of the Census, Governments Division, Washington, DC 20233–6800, 800–242–2184 (telephone), hwulf@census.gov or dhirsch@census.gov (Internet e-mail address).

SUPPLEMENTARY INFORMATION:

I. Abstract

This census provides government organization, employment and finance data for state and local governments. The data are used to calculate the Gross Domestic Product (GDP), to monitor the government sector of the economy, and to formulate, develop, and review public policy.

The organization phase provides statistics on the number of local governments by type and by selected characteristics. The employment phase collects data on employment and payrolls of state and local governments. In the finance phase, the information relates to several aspects of state and local government public finance: revenues, including related property tax bases; expenditures by function and character; indebtedness and debt transactions; and cash and security holdings.

The 1997 Census of Governments excludes two portions of information collected in the 1992 quinquennial census; There will not be a taxable property value phase and the organization phase will exclude data relating to elected officials. In addition, there are two significant methodological changes; The reference date for the Employment phase will be March 12, 1997 instead of October 12, 1997 and all organization phase mail data will be obtained on joint employment/organization forms (EGO-forms).

II. Method of Collection

Canvass methodology consists of a mail out/mail back questionnaire. Responses will be screened manually, then put into an electronic format. Other methods used to collect data and maximize response include central data collection, electronic reporting, solicitation of printed reports in lieu of a completed questionnaire, and use of the Census Bureau's Federal Single Audit Clearinghouse. The organization phase includes, in addition, extensive legal research to determine the existence and organizational ties of governmental entities.

III. Data

OMB Number: Not available.
Form Number: F–1, F–5, F–5A, F–11, F–12, F–13, F–21, F–22, F–25, F–28, F–29, F–32, F–42, E–1, E–2, E–3, E–6, E–7, E–9, EGO–3, EGO–4, EGO–6, EGO–7.
Type of Review: Regular.
Affected Public: State, local or tribal government.
Estimated Number of Respondents: 134,119.
Estimated Time Per Response: 1.27.
Estimated Total Annual Burden Hours: 170,017.
Estimated Total Cost: The estimated cost to respondents for all phases of the Census of Governments is $2,261,226. The estimated cost to the Federal government is contained in the budgetary plans of the 1997 Census of Governments. In total, these amounts are projected to be about $13.4 million.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 USC, Section 161.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 2, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–25801 Filed 10–7–96; 8:45 am]

BILLING CODE 3510–07–P

National Oceanic and Atmospheric Administration

Space-Based Data Collection and Location Systems

AGENCY: National Environmental Satellite, Data, and Information Services (NESDIS), NOAA and Commerce.

ACTION: Notice of public hearing and change in administrative policy.

SUMMARY: NESDIS of NOAA is changing its policy concerning non-environmental use of the Argos space-based data collection and location system. As of this date, NESDIS will no longer promote the use of the Argos system for commercial non-environmental applications.

Furthermore, NESDIS, in cooperation with the Department of Commerce Office of Air and Space Commercialization, is hosting a public meeting on December 12 and 13, 1996, to bring together current and planned space-based data collection and location service providers and users to present, discuss and document pertinent information necessary to reevaluate and redefine overall government policy and practice. This meeting is being held in recognition of the emerging market in commercial data collection and location services (e.g., Mobile Space Services), which motivated the recent change in Argos system use policy.

DATES: This public meeting will take place December 12 and December 13, 1996. There will be a technical session on December 12, 1996, from 9:30 a.m. to 5:00 p.m. The policy session will be held on December 13, 1996, from 9:30 a.m. to 5:00 p.m.

ADDRESSES: The meetings will be held at the United States Department of Commerce, NOAA Silver Spring Metro Campus Auditorium, 1301 East-West Highway, Silver Spring, Maryland. Parties interested in participating in the December 12 technical session, particularly service providers who would like to present current and future capabilities and display materials in the exhibit hall, and users who would like to present current and future requirements, should contact Mr. Dane Clark (see **FOR FURTHER INFORMATION CONTACT**) by close of business November 1, 1996. Parties interested in participating in the December 13 policy session, particularly those that would like to give oral and/or written presentations, should also contact Mr. Dane Clark by close of business November 1, 1996. Due to time constraints, oral presentations may be limited.

FOR FURTHER INFORMATION CONTACT: Mr. Dane Clark, NOAA, National Environmental Satellite, Data, and Information Service, Direct Services Division, Federal Building 4, Room 0160, 4401 Suitland Road, Suitland, Maryland 20746; (301) 457–5678, e-mail: satinfo@nesdis.noaa.gov. NOAA plans to provide further information about this meeting, and other Argos and GOES Data Collection System-related information, on the Public Meeting homepage; which can be accessed via http://www.nnic.noaa.gov/.

SUPPLEMENTARY INFORMATION: NOAA operates an environmental data collection system on its Geostationary Operational Environmental Satellite (GOES) and an environmental data collection and location system on its Polar-orbiting Operational Environmental Satellite (POES).

The data collection and location service on POES is provided through a cooperative program with the Centre National d'Etudes Spatiales (CNES), the French national space agency, wherein a French instrument, Argos, flies aboard U.S. spacecraft. The Argos Data Collection and Location System, managed by NOAA and CNES jointly, consists of: (1) Instruments provided by CNES, which, as noted above, are flown aboard NOAA polar orbiting satellites, and are scheduled to also fly on Japanese and European polar-orbiting satellites starting in 1999 and 2002, respectively; (2) user platforms equipped with sensors and a transmitter terminal; (3) global data receipt and data processing centers. The GOES Data Collection System (DCS) consists of: (1) U.S. Government instruments on NOAA geostationary satellites; (2) user platforms; (3) data receipt and data dissemination systems. The GOES DCS is managed solely by NOAA.

Both the GOES DCS and the Argos system are operated to support environmental applications, e.g. meteorology, oceanography, hydrology, ecology, and remote sensing of earth resources. In addition, the Argos system supports those applications which protect the environment, e.g. hazardous material tracking, fishing vessel tracking for treaty enforcement, animal tracking, and oil and gas pipeline monitoring to prevent leakage. The majority of users are government agencies and researchers, and in fact, much of the data collected by both the GOES DCS and the Argos system are provided to the World Meteorological Organization via the Global Telecommunications System for inclusion in the World Weather Watch Program.

On October 2, 1981 NOAA published regulations at 15 CFR 911 (46 FR 48634) that made the extra capacity of the GOES DCS available to non-NOAA users. Such use of the GOES DCS by other government and private users to collect environmental data was contingent upon: (1) All required conditions for access to the GOES DCS being met; (2) NOAA, another Federal agency, or a state or local agency being interested in or having a requirement to collect such data; and (3) no alternative commercial service existing that could provide this service.

No regulations have been published concerning the Argos system. However, in March 1992, NESDIS published a notice in the Commerce Business Daily (CBD) noting that a small portion, i.e., less than 5 percent of the Argos system capacity could be used for non-environmental purposes. The CBD notice explained:

> Potential users interested in utilizing the Argos System for innovative experiments or demonstrations of non-environmental applications may request admission by submitting a program application. Programs admitted under this provision will normally be limited for periods not to exceed one year. However, program extensions may be requested.

The impetus for encouraging non-environmental uses of the Argos system was the U.S. Commercial Space Guidelines of 1991 which encouraged government agencies to promote commercial entities access to excess U.S. space-based assets in order to encourage the growth of the emerging U.S. commercial space industry. This 5 percent non-environmental system use

policy successfully allowed commercial developers access to an operational space-based system to help develop, but not implement, their nascent services.

In light of the fact that a commercial industry is starting to emerge in precisely this area of data collection and location services, (e.g., Mobile Space Services) as well as the U.S. Government's long-standing policy against competing with the private sector, NESDIS will no longer promote the use of the Argos system for commercial non-environmental applications.

Public Meeting

As new, private space-based data collection and location systems begin to evolve, NOAA is eager to explore new opportunities that will be consistent with NOAA's mission and user requirements and national policies supporting commercial development. To do this requires an active dialogue between both users and service providers. In order to launch such a dialogue, NOAA, in cooperation with the Department of Commerce Office of Air and Space Commercialization, will sponsor a public meeting on data collection and location system use policy.

This public meeting will bring together current and planned space-based data collection and location service providers and users to present, discuss, and document pertinent information necessary to reevaluate and redefine overall government policy and practice. One possible outcome of this meeting may be the development of consolidated regulations concerning use of GOES DCS and Argos data collection systems.

The meeting will be held at the NOAA Complex in Silver Spring, Maryland on December 12 and 13, 1996. The first day of the meeting will focus on technical, informational presentations and exhibits by industry participants. The second day of the meeting will focus on the policy discussions.

Parties interested in participating in the public meeting, particularly those that would like to give oral and/or written presentations or who would like to display materials in the exhibit room should contact Mr. Dane Clark (See **FOR FURTHER INFORMATION CONTACT**) by close of business, November 1, 1996. Due to time constraints, oral presentations may be limited. The exhibit area will be accessible on December 11, 1996, from 9:30 a.m. to 5:00 p.m. for those participants who will be setting up exhibits.

Dated October 1, 1996.

Robert S. Winokur,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 96–25683 Filed 10–7–96; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

October 3, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting import limits.

EFFECTIVE DATE: October 9, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 1359, published on January 19, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 3, 1996

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 11, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on October 9, 1996, you are directed to adjust the limits for the following categories, as provided for in the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
342/642	460,297 dozen.
351/651	955,904 dozen.
442	62,051 dozen.
448	42,882 dozen.
633	128,053 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The 1996 Guaranteed Access Levels (GALs) for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–25802 Filed 10–07–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

October 3, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 9, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62412, published on December 7, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 3, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996.

Effective on October 9, 1996, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Levels in Group I	
237	1,240,747 dozen.
239	9,692,381 kilograms.
331/631	5,023,117 dozen pairs.
333/334	217,180 dozen.
335	78,177 dozen.
336	737,808 dozen.
340/640	1,026,382 dozen.
341/641	652,813 dozen.
345	165,229 dozen.
347/348	2,022,222 dozen.
359–C/659–C [2]	1,403,860 kilograms.
361	1,704,133 numbers.
369–S [3]	42,845 kilograms.
433	3,504 dozen.
445/446	28,923 dozen.
447	8,869 dozen.
634	531,770 dozen.
635	377,062 dozen.
636	1,528,587 dozen.
638/639	1,910,361 dozen.
645/646	545,975 dozen.
659–H [4]	1,279,696 kilograms.
847	522,043 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–25803 Filed 10–07–96; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:30 a.m., Wednesday, October 9, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR FURTHER INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–25915 Filed 10–4–96; 8:45 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Thursday, October 31, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–25916 Filed 10–4–96; 11:20 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Flammability Standards for Carpets and Rugs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the Federal Register of January 19, 1996 (61 FR 1363), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the agency's intention to seek reinstatement of approval of collections of information in regulations implementing two flammability standards for carpets and rugs. The regulations are codified at 16 CFR Parts 1630 and 1631, and prescribe requirements for testing and recordkeeping by persons and firms issuing guaranties of products subject to the Standard for the Surface Flammability of Carpets and Rugs and the Standard for the Surface Flammability of Small Carpets and Rugs. No comments were received in response to that notice. By publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget a request for reinstatement of approval of

those collections of information without change through November 30, 1999.

Additional Information About the Request for Reinstatement of Approval of Collections of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Standard for the Surface Flammability of Carpets and Rugs, 16 CFR Part 1630; Standard for the Surface Flammability of Small Carpets and Rugs, 16 CFR Part 1631.

Type of request: Reinstatement of approval without change.

General description of respondents: Manufacturers and importers of products subject to the flammability standards for carpets and rugs.

Estimated number of respondents: 120.

Estimated average number of hours per respondent: 530 per year.

Estimated number of hours for all respondents: 63,600 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be sent within 30 days of publication of this notice to Victoria Wassmer, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for reinstatement of information collection requirements and supporting documentation are available from Carl Blechschmidt, Acting Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0416, extension 2243.

Dated: October 3, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–25808 Filed 10–7–96; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Security Policy Advisory Board

ACTION: Notice.

SUMMARY: The President's Security Policy Advisory Board has been established pursuant to Presidential Decision Directive/NSC–29, which was signed by President on September 16 1994.

The Board will advise the President on proposed legislative initiatives and executive orders pertaining to U.S. security policy, procedures and practices as developed by the U.S. Security Policy Board, and will function as a federal advisory committee in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act.''

The President has appointed from the private sector, three of five Board members each with a prominent background and expertise related to security policy matters. General Larry Welch, USAF (Ret.) will chair the Board. Other members include: Admiral Thomas Brooks, USN (Ret.) and Ms. Nina Stewart.

The next meeting of the Board will be held on November 8, 1996, 0900 at the Aerospace Corporation, 2350 E. El Segundo Boulevard, Building A., El Segundo, CA 90245 and will be open to the public.

For further information please contact Mr. Terence Thompson, telephone: 703/602–9969.

Dated: October 2, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–25672 Filed 10–7–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Notice of processing deadlines to submit loan records and promissory notes.

SUMMARY: This notice establishes processing deadlines for the submission of William D. Ford Federal Direct Loan (Direct Loan) Program promissory notes and electronic records to the Secretary for the 1994–1995 academic year (Year 1) and the 1995–1996 academic year (Year 2). Any electronic records and promissory notes for loans made during Year 1 and Year 2 are subject to the deadlines contained in this notice.

EFFECTIVE DATE: The deadline for processing any electronic records and promissory notes for loans made during Year 1 is November 22, 1996. The deadline for processing any electronic records and promissory notes for loans made during Year 2 is July 31, 1997.

FOR FURTHER INFORMATION CONTACT: Douglas Laine, Program Specialist, Direct Loan Policy Group, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3045, ROB–3, Washington, D.C. 20202. Telephone (202) 708–9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Secretary is establishing processing deadlines by which institutions that participated in Year 1 or Year 2 of the Direct Loan Program must submit electronic records and promissory notes for Direct Loans made during those years. Under an institution's participation agreement with the Secretary to participate in the Direct Loan Program, an institution must comply with all of the requirements established by the Secretary relating to student loan information with respect to loans made under the Direct Loan Program. *See* 34 CFR 685.300(b)(6). This provision includes the submission of records relating to Direct Loans. The Secretary is exercising his authority under this provision to establish a processing deadline by which all applicable electronic records and promissory notes for a particular academic year must be final, complete, accurate, and submitted to the Secretary.

The Secretary believes that establishing annual processing deadlines for the submission of all electronic records (including initial and adjusted or revised records) and promissory notes is necessary to improve the integrity and accountability of the Direct Loan Program and to improve services to students and schools. Schools are required under 34 CFR 685.309(a) to establish and maintain proper administrative and fiscal procedures to protect the rights of student and parent borrowers as well as to protect the United States from unreasonable risk of loss. Establishing the processing deadlines contained in this notice will help achieve these goals. Further, establishing an annual processing deadline will enable the Secretary to finalize cash records under the Direct Loan Program for an academic year within a reasonable period of time following the end of that academic year. The Secretary also will be better able to ensure that Direct Loan monies were disbursed appropriately to student borrowers attending a school, or to parent borrowers borrowing on behalf of dependent students at the school. The processing deadlines also will enable the Department to conduct a program review of a Direct Loan school more efficiently, as all Direct Loan records

submitted to the Secretary by that date will be deemed final.

It is important that schools understand the difference between the annual processing deadline and the 30-day requirement for the regular submission of Direct Loan records. The Secretary believes that institutions have been adequately notified that Direct Loan records must be submitted to the Secretary in a timely manner. The Department has published numerous documents emphasizing that schools should submit all loan origination records, promissory notes, and disbursement records to the Secretary on a monthly basis. The Department specifically provided this guidance in the April 26, 1994, Announcement of Criteria for Loan Origination—1995–1996 Academic Year (59 FR 21804) and in ''Direct Loan Program Bulletin'' DLB–15. Further, the Department has published regulations in the Federal Register on December 1, 1995, requiring schools that originate Direct Loans to submit loan origination records, promissory notes, and disbursement records, for the first disbursements of loans to the Secretary no later than 30 days following the date the disbursements are made. In addition, these regulations require that schools submit disbursement records for each subsequent disbursement to the Secretary no later than 30 days following the date the subsequent disbursements are made. Schools that participate under standard origination must submit an initial and subsequent disbursement record to the Secretary no later than 30 days following the date of each disbursement. See 34 CFR 685.301(d).

These regulations, which were effective beginning on July 1, 1996, apply to all Direct Loan disbursements, both those made prior to July 1 and those made on or after July 1. Thus, for any disbursement of a loan made prior to July 1, 1996, the institution was required to submit all electronic records and promissory notes associated with that disbursement no later than 30 days after the effective date of these regulations—July 31, 1996. Any institution that is not in compliance with the 30-day time period for reporting may be subject to fines, penalties, or other sanctions, as determined by the Secretary.

The Secretary realizes that in some cases institutions will need to edit or adjust the electronic records after the initial records are submitted to the Secretary. Therefore, the Secretary is publishing this notice establishing annual processing deadlines and to notify institutions that any electronic record or promissory note submitted to the Secretary for Year 1 or Year 2 after the applicable deadline will be rejected. Borrower loan files that remain incomplete or inaccurate by the deadline date may result in institutional, rather than federal, responsibility for the loan or portion of the loan.

Deadlines for Submission of Records

An institution that participated in Year 1 (academic year 1994–1995) of the Direct Loan Program must submit all electronic loan records and promissory notes associated with Direct Loans made during Year 1 to the Secretary no later than (45 days after publication in the Federal Register).

Institutions that participated in Year 2 (academic year 1995–1996) of the Direct Loan Program must submit all electronic loan records and promissory notes associated with Direct Loans made during Year 2 to the Secretary no later than July 31, 1997.

(Catalog of Federal Domestic Assistance Number 84.268, William D. Ford Federal Direct Loan Program)

Dated: September 30, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–25709 Filed 10–7–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy .

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Agreement for Cooperation between the Government of the United States of America and the International Atomic Energy Agency concerning the Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S–IA–170, for the sale of 7.747 grams of uranium enriched to 93.122%, 259.94 grams of natural uranium and 12.937 grams of plutonium to the International Atomic Energy Agency Laboratory in Seibersdorf, Austria, for use as reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 1, 1996.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 96–25731 Filed 10–7–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Agreement for Cooperation between the Government of the United States of America and the International Atomic Energy Agency concerning the Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S–IA–169, for the sale of 21.693 grams of uranium enriched to 93.122%, 77.981 grams of normal uranium and 7.528 grams of plutonium to the International Atomic Energy Agency Laboratory in Seibersdorf, Austria, for use as reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 1, 1996.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 96–25732 Filed 10–07–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Pantex Plant, Amarillo, Texas

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas.

DATE AND TIME: Tuesday, October 22, 1996: 10:00 a.m.–2:30 p.m.

ADDRESSES: Amarillo Association of Realtors, 5601 Enterprise Circle, Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806) 477–3121.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

10:00 a.m.: Welcome—Introductions—Approval of Minutes
10:10 a.m.: Co-Chairs' Comments
10:20 a.m.: ATSDR Update
Rick Collins, Senior Scientist
10:50 a.m.: Safety Management Evaluation Out-Brief
Glen Podonsky
11:50 a.m.: Updates
Occurrence Reports
12:20 p.m.: Lunch
12:45 p.m.: Subcommittee Reports/Task Force Reports
Policy and Personnel
Nominations
Budget and Finance, funding change update
Environmental Restoration
1:00 p.m.: Work Session
1997 Work Plan and Evaluation
2:25 p.m.: Closing Comments
2:30 p.m.: Adjourn

Public Participation: The meeting is open to the public, and public comment will be invited throughout the meeting. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 a.m. to 10:00 p.m., Monday through Thursday; 7:45 a.m. to 5:00 p.m. on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 p.m. to 6:00 p.m. on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 a.m. to 7:00 p.m. on Monday; 9:00 a.m. to 5:00 p.m., Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on October 2, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–25733 Filed 10–7–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site.

DATES AND TIMES: Friday, Saturday, and Sunday October 18–20, 1996:

October 18—1:00 p.m.-6:00 p.m.
October 19—8:30 a.m.-6:00 p.m.
October 20—8:30 a.m.-12:00 p.m.

ADDRESSES: The Holiday Inn—Charleston on the Beach, One Center Street, Folly Beach, South Carolina.

FOR FURTHER INFORMATION CONTACT: Tom Heenan, Manager, Environmental Restoration and Solid Waste, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–8074.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Friday, October 18, 1996

1:00 pm: Review applications of potential candidates for Board membership and select three qualified applicants per Board vacancy.
6:00 pm: Adjourn

Saturday, October 19, 1996

8:30 am: Review applications of potential candidates for Board membership and select three qualified applicants per Board vacancy.
6:00 pm: Adjourn

Sunday, October 20, 1996

8:30 am: Final selection of qualified candidates for Board membership and review Board membership requirements to ensure all are met.
12:00 pm: Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Heenan's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday except Federal holidays. Minutes will also be available by writing to Tom Heenan, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling him at (803)-725–8074.

Issued at Washington, DC on October 2, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–25734 Filed 10–07–96; 8:45 am]

BILLING CODE 6450–01–P

Alaska Power Administration

[Rate Order No. APA–12]

Eklutna Project - Order Confirming and Approving an Adjustment of Power Rates on an Interim Basis

AGENCY: Alaska Power Administration, DOE.

ACTION: Notice of a rate order.

SUMMARY: Notice is hereby given that the Deputy Secretary approved Rate Order No. APA 12 which adjusts the present power rates for the Eklutna Project. This is an interim rate action effective October 1, 1996, for a period of 12 months. This rate is subject to final confirmation and approval by the Federal Energy Regulatory Commission (FERC) for a period of up to five years.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney L. Adelman, Administrator, Alaska Power Administration, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–2008.

SUPPLEMENTARY INFORMATION: On May 16, 1996, the Alaska Power Administration (APA) published a Federal Register notice of its intention to adjust current power rates for the Eklutna Project for a period of up to five years. The present rates are 18.7 mills per kilowatthour for firm energy, 10 mills per kilowatthour for non-firm energy, and 0.3 mills per kilowatthour for wheeling. These rates were approved by FERC Order, Docket No. EF94–1011–000 issued February 2, 1995, for the period October 1, 1994, through September 30, 1999.

Based on comments received during the public information process, APA now proposes that rates be adjusted beginning October 1, 1996, for a period of up to five years. The new rates would be 8.8 mills per kilowatthour for firm energy, 8.8 mills per kilowatthour for non-firm energy, and 0.3 mills per kilowatthour for wheeling. The Federal Register notice also indicated APA's intention to seek interim approval of the proposed rates by the Deputy Secretary of Energy pending final confirmation and approval of the rates by FERC. Following review of APA's proposal within the Department of Energy, I approved on an interim basis Rate Order No. APA–12 which adjusts the present Eklutna Rates for period of up to five years beginning October 1, 1996, subject to final confirmation and approval by FERC.

Issued at Washington, DC, September 30, 1996.

Charles B. Curtis,

Deputy Secretary.

This is an interim rate action subject to review and approval of the Federal Energy Regulatory Commission. It is made pursuant to the authorities delegated in DOE Delegation Order No. 0204–108, Amendment No. 3 to that Order.

Background

The Eklutna Project was completed by the U.S. Bureau of Reclamation in 1955. The Alaska Power Administration has operated and maintained the project since 1967. The Eklutna Project is a single-purpose project comprised of a dam, reservoir, 30,000-kW hydroelectric plant, 45 miles of 115-kV transmission lines, and three substations serving the Anchorage and Palmer areas. All project costs are allocated to power. The entire output of the project is under contract to three preference customers in the Anchorage-Palmer area on a take-or-pay basis.

Rate Schedules A–F10, A–N11 and A–W2 now in effect for the Eklutna Project were confirmed and approved by order of the Federal Energy Regulatory Commission, Docket No. EF94–1011–000 issued February 2, 1995, for a period ending September 30, 1999.

Discussion

System Repayment

Studies prepared by the Alaska Power Administration, as required by DOE Policy No. RA 6120.2, demonstrate that the present firm rate must be decreased. The decreased rate will provide sufficient revenue to meet requirements for the rate period and meet project repayment criteria by the end of the repayment period. On that basis, the Alaska Power Administration proposes an adjustment of the firm rate for a period not to exceed five years. The Administrator of Alaska Power Administration has certified that the new rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Environmental Impact

Alaska Power Administration has concluded with Departmental concurrence that this rate action will have no significant environmental impact within the meaning of the Environmental Policy Act of 1969. It is the Alaska Power Administration's determination that the rate adjustment does not exceed the rate of inflation and therefore is categorically excluded from the NEPA process as defined in 40 CFR 1508.4 and is listed as a categorical exclusion for DOE in 10 CER 1021, Appendix B4.3. The proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding this rate action, including studies and other supporting material, is available for public review in the offices of the Alaska Power Administration, 2770 Sherwood Lane, Suite 2B, Juneau, Alaska.

Public Notice and Comment

Opportunity for public review and comment on the rate action was announced by notice in the Federal Register on May 16, 1996, and in three paid advertisements in the newspaper in the market area on June 13, 14, and 15, 1996. The notice provided for a comment period of 90 days following publication in the Federal Register. A public information and comment forum was scheduled in Anchorage, Alaska on June 24, 1996, with public comment period ending August 14, 1994. The public information and comment forum was canceled on June 17, 1994, due to lack of interest, in accordance with 10 CFR 903.15(b), 10 CFR 903.15(c) and the Alaska Power Administration's prior notices of the public forum.

Submission to FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1996, attached Wholesale Power Rate Schedules A–F11 A–N12, and A–W3. These rate schedules shall remain in effect on an interim basis for a period of 12 months unless such period is extended or until the Federal Energy Regulatory Commission confirms and approves them or substitute rate schedules on a final basis.

Issued at Washington, DC, this 30th day of September 1996.

Charles B. Curtis,

Deputy Secretary.

Schedule A–F12

United States Department of Energy; Alaska Power Administration; Eklutna Project, Alaska

Schedule of Rates for Wholesale Firm Power Service

Effective: October 1, 1996 for a maximum of five years.

Available: In the area served by the Eklutna Project, Alaska.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

Monthly Rate: Capacity charge: None.

Energy charge: All energy at 8.8 mills per kilowatt-hour.

Minimum Annual Capacity Charge: None.

Billing Demand: Not applicable.

Adjustments: For transformer losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

For power factor: None. The customer will normally be required to maintain power factor at the point of delivery of between 90 percent lagging and 90 percent leading.

For auxiliary power service: Auxiliary power supplies may be used in conjunction with the service hereunder if the parties hereto, prior to the Contractor's utilization of any such auxiliary power supply, have entered into a written operating agreement defining the procedure by which the amount of power and energy will be determined.

Schedule A–N13

United States Department of Energy; Alaska Power Administration; Eklutna Project, Alaska

Schedule of Rates for Wholesale Nonfirm Power Service

Effective: October 1, 1996 for a maximum of five years.

Available: In the area served by the Eklutna Project, Alaska.

Applicable: To firm power customers normally maintaining generating facilities or other sources of energy sufficient to supply their requirements.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

Monthly Rate: Capacity charge: None.

Energy Charge: All energy at 8.8 mills per kilowatt-hour.

Minimum Charge: None.

Billing Demand: Not applicable.

Adjustments: For character and conditions of service: None.

For transformer losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

Schedule A–W3

United States Department of Energy; Alaska Power Administration; Eklutna Project, Alaska

Schedule of Rates for Wholesale Wheeling Service

Effective: October 1, 1996 for a maximum of five years.

Available: In the area served by the Eklutna Project, Alaska.

Applicable: To all non-federal power transmitted over Eklutna Project transmission facilities for the benefit of Project customers.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

Monthly Rate: Capacity charge: None.

Energy Charge: All energy wheeled for others at .3 mills per kilowatt-hour.

Minimum Charge: None.

Billing Demand: Not applicable.

Adjustments: For character and conditions of service: None.

For transformer and transmission losses: As specified in wheeling contracts.

[FR Doc. 96–25730 Filed 10–7–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP96–392–000]

Black Marlin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1996.

Take notice that on September 27, 1996, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to be effective November 1, 1996:

First Revised Sheet No. 205

Black Marlin states that the above-referenced tariff sheet is being filed to revise Sections 3.1 and 3.3 of the General Terms and Conditions of Black Marlin's tariff. The revision to Section 3.1 will permit Transporter and Shipper to mutually agree on the installation, ownership, maintenance and operation of measurement equipment. The revision to Section 3.3 will provide for the verification of such equipment by test at no more than 45 day intervals. This 45 day interval is consistent with Department of Interior regulations governing the testing of measurement equipment located offshore.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulation's. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25694 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–814–000]

Colorado Interstate Gas Company; Notice of Request Under Blanket Authorization

October 2, 1996.

Take notice that on September 24, 1996, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP96–814–000 a request pursuant to Sections 157.205, 157.216 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216 and 157.212) for authorization to abandon existing facilities and for authorization to install and operate upgraded facilities, at the same location, in Pueblo County, Colorado, to accommodate an existing customers increased growth. CIG makes such request, under its blanket certificate issued in Docket No. CP83–21–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, CIG is proposing to abandon two 2-inch meters at the existing Pueblo West delivery facilities and to install a new 4-inch meter capable of increased deliverability to the Public Service Company of Colorado (PSCo). CIG states the deliveries at the Pueblo West delivery point will provide system supply to the Pueblo West area.

It is asserted that PSCo is currently entitled under existing agreements to receive up to 985 Dt of natural gas per day at 175 psig, and that the facility upgrade will permit CIG to deliver up to 3,700 Dt of natural gas per day to PSCo at 275 psig. CIG further states that the proposed increased volumes will be within PSCo's existing entitlements. CIG estimates the proposed upgrade will cost approximately $18,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25689 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–190–004]

Colorado Interstate Gas Company; Notice To Place Suspended Tariff Sheets Into Effect

October 2, 1996.

Take notice that on September 30, 1996, Colorado Interstate Gas Company (CIG) tendered for filing a motion to place suspended rates in effect, the following revised tariff sheets:

Substitute Original Sheet No. 7A
Substitute Fourth Revised Sheet No. 8
Substitute Original Sheet No. 8A
Substitute Sixth Revised Sheet No. 9
Substitute Sixth Revised Sheet No. 10
Substitute First Revised Sheet No. 13A

According to CIG, this filing reflects the elimination, from the costs underlying the Docket No. RP96–190 rates, of costs associated with facilities not placed in service by September 30, 1996. This elimination was required by the Commission's April 25, 1996 ''Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions, and Establishing Hearing Procedures'' in Docket No. RP96–190–000, Colorado Interstate Gas Company, 75 FERC (CCH) ¶ 61,090 (1996); see id. at 61,304 (Ordering Paragraph (D)).

CIG states that a full copy of its filing is being served on each jurisdictional customer, interested state commission, and each party that has requested service as well as upon each party appearing on the Commission's official service list for Docket No. RP96–190.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspections in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25692 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–784–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

October 2, 1996.

Take notice that on September 12, 1996, as supplemented on September 30, 1996, Columbia Gas Transmission Corporation (Columbia), Post Office Box 1273, Charleston, West Virginia 25325–1273, filed in Docket No. CP96–784–000 a request pursuant to §§ 157.205, 157.212(a), and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.208(b), and 157.216(b)) for authorization to modify certain measurement and appurtenant facilities at an existing point of delivery to Commonwealth Gas Services, Inc. (COS) at the Sunrise Valley Station (Sunrise), in Fairfax County, Virginia, and to partially reassign the Maximum Daily Delivery Obligations (MDDO's) from other existing points of delivery to COS to this particular point of delivery, under the blanket certificate issued in Docket No. CP83–76–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia states that it currently provides COS with firm transportation service under Part 284 of the Commission's Regulations at Sunrise. Columbia proposes to provide increased services to COS at Sunrise pursuant to its blanket certificate issued in Docket No. CP86–240–000 under its existing Rate Schedule, Storage Service Transportation (SST) and within certificated entitlements. Columbia claims that COS has requested that its existing SST Agreement with Columbia be amended increasing the MDDO at Sunrise from 43 to 2,000 Dth/d and reducing the MDDO's at Warrenton from 4,110 to 3,224 Dth/d and at Dulles from 5,148 to 4,077 Dth/d. Columbia proposes to deliver 2,000 Dth/d and up to 200,000 Dth/annually at the proposed modified delivery point. Columbia asserts that COS has not asked for an increase in its firm entitlements in conjunction with this request and that there is no impact on Columbia's peak day obligations to its other customers as a result of the proposed modification.

Columbia states that the proposed modification will consist of abandoning by removal approximately 33 feet of four-inch station piping, a regulator setting and a relief valve, meter setting and the four by six inch reducer; installing electronic measurement equipment; and operating and maintaining the electronic measurement and the Equimeter T–18 turbine meter and associated meter run. Additionally, Columbia states that COS will install approximately 53 feet of four-inch station piping, six by four inch reducer, four inch insulation joint, meter setting, Equimeter T–18 turbine meter, heater valve setting, regulator setting and new odorizer system. Columbia claims that COS will operate and maintain approximately 53 feet of four-inch station piping, the insulation joint, meter setting and bypass run, heater valve setting, regulator setting, six by four inch reducer, and new odorizer system. Columbia states that COS will own all of the facilities that are to be constructed.

Columbia estimates that the cost for the proposed modification is $34,700, which COS will reimburse Columbia 100% of the total actual cost. Columbia claims that there will be no salvage value for its facilities that are to be retired and the estimated net debit to accumulated provision for depreciation is $23,919. Columbia asserts that it has received clearance from the Commonwealth of Virginia Department of Historic Resources and the United States Department of the Interior Fish and Wildlife Service for its proposed construction. Columbia states that it has also obtained clearance from the Commonwealth of Virginia Department of Environmental Quality comprising of Virginia Department of Environmental Quality comprising of Virginia's Coastal Resources Management Program. Columbia states that the proposed abandonment is supported by COS and will not result in any abandonment of service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to

§ 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25687 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–101–000]

Equitrans L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 21, 1996.

Take notice that on September 30, 1996, Equitrans, L.P. (Equitrans), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective October 1, 1996.

Third Revised Sheet No. 400
Fourth Revised Sheet No. 401

Equitrans states that this filing is made to update Equitrans' index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect changes in contract activity. Equitrans requests a waiver of the Commission's notice requirements to permit the tariff sheet to take effect on October 1, 1996, the first calendar quarter, in accordance with Order No. 581.

Equitrans states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25691 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–143–039]

Great Lakes Gas Transmission Limited Partnership; Notice of Revenue Sharing Report 1994/1995 Contract Year

October 2, 1996.

Take notice that on September 30, 1996, Great Lakes Gas Transmission Limited Partnership (Great Lakes) filed its Interruptible/Overrun (I/O) Revenue Sharing Report with the Federal Energy Regulatory Commission (Commission) in accordance with the Stipulation and Agreement (Settlement Agreement) filed on September 24, 1992, and approved by the Commission's February 3, 1993, order issued in Docket No. RP91–143–000, *et al.*

Great Lakes states that in accordance with Article IV of the Settlement Agreement as modified by Commission order issued in Great Lakes' restructuring proceeding in Docket No. RS92–63 on October 1, 1993, this report reflects application of the revenue sharing mechanism and remittances made to firm shippers for I/O revenue collected during the November 1, 1994, through October 31, 1995, period. Such remittances, totaling $824,377, were made to Great Lakes' firm shippers on August 30, 1996.

Great Lakes states that copies of the report were sent to its firm customers, parties to this proceeding and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rule of Practice and Procedure 18 CFR 385.211. All such protests must be filed on or before October 9, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25686 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–110–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes In FERC Gas Tariff

October 2, 1996.

Take notice that on September 30, 1996, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Fourteenth Revised Sheet No. 4, with a proposed effective date of November 1, 1996.

Iroquois states that pursuant to Part 154 of the Commission's regulations and Section 12.3 of the General Terms and Conditions of its tariff, Iroquois is filing the referenced tariff sheet and supporting workpapers as part of its annual update of its Deferred Asset Surcharge to reflect the annual revenue requirement associated with its Deferred Asset for the amortization period commencing November 1, 1996. The revised tariff sheet reflects a decrease of $.0001 per Dth in Iroquois' effective Deferred Asset Surcharge for Zone 1 (from $.0009 to $.0008 per Dth), a decrease in the zone 2 surcharge of $.0001 per Dth (form $0.0007 to $.0006 per Dth), and a decrease in the Inter-Zone surcharge of $.0002 per Dth (from $.0016 to $.0014 per Dth).

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedures. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25701 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–393–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1996.

Take notice that on September 27, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, the following tariff sheets, to become effective November 1, 1996:

Fifth Revised Volume No. 1
Third Revised Sheet No. 801
Third Revised Sheet No. 807
Third Revised Sheet No. 808
Second Revised Sheet No. 1302
Second Revised Sheet No. 1900
First Revised Sheet No. 1903
First Revised Sheet No. 1904
Second Revised Sheet No. 1905
Second Revised Sheet No. 1906
Fourth Revised Sheet No. 1907
Second Revised Sheet No. 1908
Fourth Revised Sheet No. 2707
Third Revised Sheet No. 5200

Koch states that the above referenced tariff sheets are being submitted to implement an unauthorized gas provision. Koch states that proposed revisions define unauthorized gas quantities and include tariff modifications to specify the treatment of this gas. Koch stats that unauthorized gas shall be quantities that are delivered into Koch's pipeline system without a nomination or those quantities that are in excess of 120% of the scheduled nomination.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed as provided by Section 154.210 of the Commission Regulations. Protests will be considered by the Commission in determining the appropriate parties to the proceeding. Any person wishing to become a part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25696 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

October 2, 1996.

Take notice that on September 30, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Thirteenth Revised Sheet No. 5A, with a proposed effective date of October 1, 1996.

National states that pursuant to Article I, Section 4, of the approved settlement in Docket Nos. RP94–367–000, *et al.*, National is required to redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced in Amortization Surcharge of 14.07 cents per dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.11 or 385.14). All such motions or protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25698 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–801–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

October 2, 1996.

Take notice that on September 18, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP96–801–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install and operate a new delivery point to accommodate deliveries of gas to Western Gas Utilities, Inc. (WGU), in Wright County, Minnesota, under Northern's blanket certificate issued in Docket No. CP82–401–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to construct and operate the new delivery point, to be known as the Delano #1B TBS, in order to deliver up to 1,000 MMBtu equivalent of natural gas per day to WGU on a peak day and up to 153,000 MMBtu equivalent on an annual basis. It is stated that the end uses of the gas will be commercial and industrial. Northern proposes to make the deliveries under its currently effective interruptible throughput service agreement. The cost of the facilities is estimated at $183,000. It is asserted that the total volumes to be delivered to WGU after the addition of the requested delivery point would not exceed those presently authorized. It is further asserted that Northern has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers. It is further explained that Northern's tariff does not prohibit the addition of delivery points.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25688 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–28–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1996.

Take notice that On September 30, 1996, Panhandle Eastern Pipe Line company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets

listed on Appendix A to the filing, to become effective November 1, 1996.

Panhandle states that this filing is made in accordance with section 24 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. Panhandle states that the revised tariff sheets filed herewith reflect the following changes to the Fuel Reimbursement Percentages:

(1) a (4.09%) decrease in the Gathering Fuel Reimbursement Percentage;

(2) a (0.41% decrease in the Field Zone Fuel Reimbursement Percentage;

(3) a (0.06%) decrease in the Market Zone Fuel Reimbursement Percentage;

(4) a (0.52%) decrease in the Injection and (0.25%) decrease in the Withdrawal Field Area; Fuel Reimbursement Percentage; and

(5) a (0.83%) decrease in the Injection and (0.56%) decrease in the Withdrawal Market.

Area Storage Fuel Reimbursement Percentages.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25699 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–391–000]

Raton Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1996.

Take notice that on September 27, 1996, Raton Gas Transmission Company (Raton) tendered for filing First Revised Tariff Sheets 4, 10, 18 and 23 to become effective October 1, 1996. Raton receives upstream transportation and storage services from Colorado Interstate Gas Company (CIG); Raton's Rate Schedule FT–1, Firm Transportation Service, and Rate Schedule IT–1, Interruptible Transportation Service, incorporate by reference the charges by CIG for its transportation and storage of natural gas from CIG's points of receipt to its delivery to Raton pursuant to CIG's currently effective Rate Schedule NNT–1.

In Docket No. RP96–190–000, CIG has proposed, inter alia, to increase its rates and to restructure its service, and to replace the service presently provided pursuant to its Rate Schedule NNT–1 with several optional services. Raton has elected to replace the service it receives under CIG's present Rate Schedule NNT–1 with services pursuant to CIG's proposed Rate Schedules NNT–1 and TF–2. Raton's First Revised Tariff Sheets 4 and 18 incorporate CIG's Rate Schedule NNT–1 and TF–2 charges into Raton's Rate Schedules. First Revised Sheet No. 10 changes the minimum Btu per cubic foot from 968 Btu's to 950 Btu's, in order to reflect the minimum Btu content for natural gas accepted for shipment by CIG. First Revised Sheet No. 23, Index of Shippers, replaces Associated Natural with PanEnergy Field Services, Inc., which has acquired the pipeline system formerly owned by Associated Natural.

CIG's Rate Schedules NNT–1 and TF–2 will be made effective October 1, 1996, subject to refund. Raton has requested that its First Revised Tariff Sheets 4, 10, 18 and 23 be accepted effective October 1, 1996, simultaneous with the CIG tariff changes, subject to the flow-through of any refunds that CIG makes when Docket No. RP96–190–000 is finally resolved.

Raton states that a full copy of its filling is being served on each of its two customers and upon the New Mexico Public Service Commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426 in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96– 25693 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–818–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

October 2, 1996.

Take notice that on September 27, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP96–818–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install a new delivery point to provide continuing firm natural gas transportation service to the Southern Connecticut Gas Company (Southern Connecticut) under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to establish a new delivery point on Tennessee's system in the vicinity of Mainline Valve No. 342 in Fairfield County, Connecticut. Tennessee will install two 6-inch hot taps, approximately fifty feet of 6-inch bypass, 10-inch headers and Bristol 3330 electronic gas measurement (EGM). The two hot taps and the interconnecting pipe will be located within Tennessee's existing right-of-way. The meter station will be located adjacent to Tennessee's existing right-of-way on a site provided by Southern Connecticut. Tennessee will install, own, operate and maintain the hot taps, the interconnecting pipe and the EGM, and will install and operate the measurement facilities. Southern Connecticut will own and maintain the measurement facilities.

Tennessee states that the total quantities to be delivered to Southern Connecticut after the delivery point is installed will not exceed the total quantities authorized prior to this request. Tennessee asserts that the installation of the proposed delivery point is not prohibited by Tennessee's tariff and that it has sufficient capacity to accomplish deliveries at the proposed new point without detriment or

disadvantage to Tennessee's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protect, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25690 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–394–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1996.

Take notice that on September 27, 1996 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets which tariff sheets are enumerated in Appendix A attached to the filing. The proposed tariff sheets are proposed to be effective November 1, 1996.

Transco states that the instant filing is submitted pursuant to Section 44 of the General Terms and Conditions of Transco's Volume No. 1 Tariff which provides that Transco will reflect in its rates the costs incurred for the transportation and compression of gas by others (hereinafter ''TBO''). Section 44 provides that Transco will file to reflect net changes in its TBO rates at least 30 days prior to the November 1 effective date of each annual TBO filing.

Transco states that Appendix B attached to the filing sets forth Transco's estimated TBO demand costs for the period November 1, 1996 through October 31, 1997, and the derivation of the TBO unit rate reflected on the tariff sheets included in Appendix A.

Transco states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25697 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–30–000]

Trunkline Gas Company; Notice of Proposed Changes In FERC Gas Tariff

October 2, 1996.

Take notice that on September 30, 1996, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective November 1, 1996:

Eighteenth Revised Sheet No. 6
Eighteenth Revised Sheet No. 7
Eighteenth Revised Sheet No. 8
Eighteenth Revised Sheet No. 9
Eighteenth Revised Sheet No. 10
Fourth Revised Sheet No. 10A

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment) of Trunkline's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets reflect: a 0.94% increase (Field Zone to Zone 2), a 1.01% increase (Zone 1A to Zone 2), a 0.71% increase (Zone 1B to Zone 2), a 0.47% increase (Zone 2 only), a 0.84% increase (Field Zone to Zone 1B), a 0.91% increase (Zone 1A to Zone 1B), a 0.61% increase (Zone 1B only), a 0.60% increase (Field Zone to Zone 1A), a 0.67% increase (Zone 1A only) and a 0.30% increase (Field Zone only) to the currently effective fuel reimbursement percentages.

Trunkline states that copies of this filing are being served on all affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214, and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25700 Filed 10–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–97–000, et al.]

Fibrowatt Thetford Limited, et al.; Electric Rate and Corporate Regulation Filings

October 1, 1996.

Take notice that the following filings have been made with the Commission:

1. Fibrowatt Thetford Limited

[Docket No. EG96–97–000]

On September 25, 1996, Fibrowatt Thetford Limited (the ''Applicant'') whose address is Astley House, 33 Notting Hill Gate, London, England, W113JQ, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning an approximately 38.5–MW net poultry-litter-fired electrical generating facility located in Thetford, England, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Termovalle S.C.A. Empresa de Servicios Publico

[Docket No. EG96–96–000]

On September 25, 1996, Termovalle S.C.A. Empresa de Servicios Publico (''Termovalle''), United States office at

KMR Power Corporation, Suite 902, 1000 Wilson Blvd, Arlington, VA 22209, filed with the Federal Energy Regulatory Commission an Application For Determination Of Status As An Exempt Wholesale Generator pursuant to Part 365 of the Commission's Regulations.

Termovalle will directly or indirectly and exclusively, develop, own and operate an electric generating facility, to be located near Cali, Colombia and sell electricity at wholesale or exclusively in markets outside of the United States. The electric generating facility will be a natural gas fired combined cycle generating unit, consisting principally of a combustion turbine and associated electric generator, a steam turbine and associated electric generator and appurtenant interconnection facilities. The facility will have a nominal generating capacity of 199 MW.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Catamount Thetford Corporation

[Docket No. EG96–98–000]

On September 25, 1996, Catamount Thetford Corporation (the ''Applicant'') whose address is 71 Allen Street, Building A, Rutland, Vermont, 05701, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant states that it will be engaged indirectly, through its subsidiary, Fibrowatt Thetford Limited, and exclusively in the business of owning an approximately 38.5–MW net poultry-litter-fired electrical generating facility located in Thetford, England, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Consumers Power Company

[Docket No. ES96–48–000]

Take notice that on September 27, 1996, Consumers Power Company filed an application, under § 204 of the Federal Power Act, seeking authorization to issue secured and/or unsecured evidences of indebtedness and/or short-term debt, including but not limited to notes, drafts and commercial paper, from time to time, in an aggregate principal amount of up to $900 million outstanding at any one time, during the period January 1, 1997 through December 31, 1998, with a final maturity date not to exceed 364 days from the date of issue.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas Gas and Electric Company

[Docket No. ES96–49–000]

Take notice that on September 26, 1996, Kansas Gas and Electric Company filed an application, under § 204 of the Federal Power Act, seeking authorization to issue promissory notes or short-term securities, from time to time, in an aggregate principal amount of not more than $500 million outstanding at any one time, during the period January 1, 1997 through December 31, 1998, with a final maturity date no later than December 31, 1999.

Comment date: October 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. William H. Grigg

[Docket No. ID–2980–000]

Take notice that on September 19, 1996, William H. Grigg filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board of and Chief Executive Officer, Duke Power Company

Director, Coltec Industries Inc.

Comment date: October 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–25685 Filed 10–07–96; 8:45 am]

BILLING CODE 6717–01–P

Western Area Power Administration

Time Extension for Submission of Written Comments on the Proposed Allocation of the Post-2000 Resource Pool—Pick-Sloan Missouri Basin Program, Eastern Division

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Time Extension.

SUMMARY: Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy, published on August 30, 1996, in the Federal Register (61 FR 45957), a notice announcing the Post-2000 Resource Pool Proposed Allocation of Power to fulfill the requirements of Subpart C—Power Marketing Initiative of the Energy Planning and Management Program Final Rule, 10 CFR § 905. The Post-2000 Resource Pool Proposed Allocation of Power is Western's implementation of Subpart C—Power Marketing Initiative of the Energy Planning and Management Program (Program) Final Rule. Subpart C of the Program provides for the establishment of project-specific resource pools and the allocation of power from these pools to new preference customers.

The comment period on the proposed allocations of power is scheduled to end October 7, 1996. This notice extends the time written comments can be submitted until October 21, 1996.

DATES: Written comments must be sent to the Upper Great Plains Regional Manager by certified or return receipt requested U.S. mail and received by close of business on October 21, 1996, at the address shown below.

ADDRESSES: All comments regarding the Proposed Allocation of the Post-2000 Resource Pool should be directed to the following address: Mr. Gerald C. Wegner, Regional Manager, Upper Great Plains Customer Service Region, Western Area Power Administration, P.O. Box 35800, Billings, MT 59107–5800.

All documentation developed or retained by Western for the purpose of developing the Proposed Allocation of the Post-2000 Resource Pool will be available for inspection and copying at the Upper Great Plains Customer

Service Regional Office located at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Harris, Power Marketing Manager, Upper Great Plains Customer Service Region, Western Area Power Administration, P.O. Box 35800, Billings, MT 59107–5800, (406) 247–7394.

After all public comments have been thoroughly considered, Western will prepare and publish the Final Post-2000 Resource Pool Allocation in the Federal Register.

Issued at Golden, Colorado, September 30, 1996.

J.M. Shafer,

Administrator.

[FR Doc. 96–25729 Filed 10–7–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 5632-9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Oral and Written Purchase Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the following Information Collection Request (ICR) for Oral and Written Purchase Orders, OMB Control No. 2030-0007, EPA ICR No. 1037.05, expiring 11/30/96, has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 7, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260-2740, and refer to EPA ICR No. 1037.05.

SUPPLEMENTARY INFORMATION:

Title: Oral and Written Purchase Orders (OMB Control No. 2030–0007, EPA ICR No. 1037-05). This is a request for extension of a currently approved collection.

Abstract: Vendors responding to an oral request for quotation will report item title, unit cost, delivery destination, delivery time, company name, small business status, address, phone number, and a point contact. They will submit this information by telephone when an Agency need for their products or services arises. EPA will use this information to award a purchase order. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 6/7/96 (61 FR 29093). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average .25 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to adjust the existing ways to comply with any previously applicable instructions and requirements; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Respondents/Affected Entities: Potential Vendors.

Estimated Number of Respondents: 15,292.

Frequency of Response: One response per oral purchase order.

Estimated Total Annual Hour Burden: 3,823 hours.

Estimated Total Annualized Cost Burden: $54,134.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1037.05 and OMB Control No. 2030–0007 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: October 2, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–25783 Filed 10–7–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5632–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Monthly Progress Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) for Monthly Progress Reports, OMB Control No. 2030–0005; EPA ICR No. 1039.08, expiring 11/30/96, has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 7, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1039.08.

SUPPLEMENTARY INFORMATION:

Title: Monthly Progress Reports (OMB Control No. 2030–0005, EPA ICR No. 1039.08) expiring 11/30/96. This is a request for extension of a currently approved collection.

Abstract: On a monthly basis, contractors are required to provide a report detailing what was accomplished on the contract for that period of time, what remains to be done, as well as a general listing of expenditures for that period of time. This allows EPA to monitor the efficiency and cost effectiveness of the work being performed. Once the information is received it is reviewed against existing financial data, contractor deliverables, and agency records for verification. These reports are prescribed under clauses in EPA contracts. Progress reports contain confidential business information and are protected from release in accordance with 40 CFR Part 2. No sensitive information is required. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it

displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 6/7/96 (61 FR 29092). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 43 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to adjust the existing ways to comply with any previously applicable instructions and requirements; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Respondents/Affected Entities: EPA Contractors.

Estimated Number of Respondents: 398.

Frequency of Response: Monthly.

Estimated Total Annual Hour Burden: 205,368 hours.

Estimated Total Annualized Cost Burden: $13,993,680.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1039.08 and OMB Control No. 2030–0005 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: October 2, 1996.

Joseph Retzer, Director,

Regulatory Information Division.

[FR Doc. 96–25785 Filed 10–07–96; 8:45 am]

BILLING CODE 6560–50–P

[NCEA–RTP–0976; FRL–5629–2]

Lead Model Validation Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of Lead Model Validation Workshop.

SUMMARY: This notice announces a Lead Model Validation Workshop to explore approaches and results for the validation of models that predict lead exposure and risk. It is sponsored by EPA—s National Center for Environmental Assessment, in cooperation with EPA—s Office of Solid Waste and Emergency Response and the EPA Technical Review Workgroup for Lead.

DATES: This scientific workshop will be held Monday, October 21, 1996, through Wednesday, October 23, 1996. It will begin at 8:30 a.m. on Monday and will conclude at 4:00 p.m. Wednesday. Members of the public may attend as observers.

ADDRESSES: The workshop will be held at the Omni Europa Hotel, 1 Europa Drive, Chapel Hill, NC 27514, telephone: 919–968–4900, FAX: 919–968–3520. To attend this workshop as an observer, contact Ms. Emily Lee, National Center for Environmental Assessment—RTP office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone: 919–541–4169; FAX: 919–541–5078 by October 16, 1996. Space is very limited, so call as soon as possible. Copies of the final Lead Model Validation Workshop Agenda will be available on or about October 8, 1996. To obtain a copy of the Agenda, contact Ms. Emily Lee at the above address. Copies of journal articles and other reports providing information on the lead models and/or their verification/validation to be discussed at the workshop will be provided to workshop registrants in advance and/or at the meeting site, as circumstances allow.

SUPPLEMENTARY INFORMATION: The purpose of this workshop is to explore approaches and results for the validation of models that predict lead exposure and risk and to ascertain useful further steps to improve and validate such models. Thus, this workshop will (a) examine lead models that evaluate impacts on humans exposed to lead in environmental media such as soil, dust, paint, drinking water, diet, and air and (b) discuss both general concepts regarding model validation and validation studies for the subject lead models. Some of these models have been used by EPA and other parties in risk assessments of various CERCLA or RCRA sites and have generated considerable interest because of differences in the scientific foundations and differences in scale of remediation implied by the models or their application.

For purposes of this workshop, EPA has defined model validation as an iterative process that describes the plausibility and accuracy of model predictions and the potential applications for which a model is appropriate. This process includes consideration of the scientific foundations of the model, the strength of data used in estimating model parameters, correctness of computational implementation of the model, and scientific methods for comparing model predictions with observational data.

The workshop will address four basic issues affecting each model:

1. *Scientific foundations of the model structure.* Does the model adequately represent the biological and physical mechanisms of the modeled system? Are these mechanisms understood sufficiently to support modeling?

2. *Quality of parameter estimates.* How extensive and robust are the data used to estimate model parameters? Does the parameter estimation process require additional assumptions and approximations?

3. *Verification.* Are the mathematical relationships posited by the model correctly translated into computer code? Are model inputs free from numerical errors?

4. *Empirical comparisons.* What are the opportunities for comparison between model predictions and data, particularly under conditions under which the model will be applied in assessments? Are model predictions in reasonable agreement with relevant experimental and observational data?

EPA is using these criteria as part of its validation strategy for evaluating the EPA Integrated Exposure/Uptake/Biokinetic Model for Lead (IEUBK) and believes it would be useful to ascertain to what extent other available lead modeling approaches have addressed these and/or other criteria.

EPA believes that the Agency and interested parties will benefit from discussion of the subject lead models, validation concepts and their application to date, and the determination of useful future validation steps. This workshop will bring together EPA personnel (scientific and policy staff) involved in derivation and use of the subject lead models and other non-EPA invited experts representing extensive experience in theoretical and practical application of

model development and validation. Interested observers may also attend the workshop. There will be opportunity for brief oral comments from observers.

Written versions of workshop presentations and a summary of key points emerging from the workshop discussions are expected to be included in subsequently published workshop proceedings. Information regarding how to obtain copies of the proceedings will be provided to workshop registrants at the time of the workshop or shortly thereafter.

Dated: October 2, 1996.

Robert J. Huggett,

Assistant Administrator for Research and Development.

[FR Doc. 96–25770 Filed 10–07–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5633–1]

Scientific Counselors Board Executive Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2), notice is hereby given that the Environmental Protection Agency (EPA), Office of Research and Development's (ORD), Board of Scientific Counselors (BOSC), will hold its Executive Committee Meeting, October 18, 1996, at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia. The meeting will start at 8:30 am and adjourn at 5:30 pm. All times noted are Eastern Time. The meeting is open to the public. Any member of the public wishing to make comments at the meeting, should contact Shirley Hamilton, Designated Federal Official, Office of Research and Development (8701), 401 M Street, S.W., Washington, DC 20460; by telephone at (202) 260–0468. In general, each individual making an oral presentation will be limited to a total time of three minutes. Anyone desiring a draft BOSC agenda may fax their request to Shirley R. Hamilton, (202) 260–0929.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Official, U.S. Environmental Protection Agency, Office of Research and Development, NCERQA (MC8701), 401 M Street, SW., Washington, DC 20460, 202–260–0468.

Dated: October 1, 1996.

Robert J. Huggett,

Assistant Administrator for Research and Development.

[FR Doc. 96–25784 Filed 10–7–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5630–5]

Indiana: Final Full Program Determination of Adequacy of State Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency, Region 5.

ACTION: Notice of final full program determination of adequacy on Indiana's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive household hazardous waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR Part 258). RCRA section 4005(c)(1)(C) requires the United States Environmental Protection Agency (U.S. EPA) to determine whether States have adequate ''permit'' programs for MSWLFs, but does not mandate issuance of a rule governing such determinations. The U.S. EPA has proposed a State/Tribal Implementation Rule (STIR) (61 FR 2584, January 26, 1996) that provides procedures by which the U.S. EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to final promulgation of the STIR, adequacy determinations will be made based on statutory authorities and requirements. In addition, States/Tribes may use the proposed STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR Part 258 to the extent the State/Tribal permit program allows such flexibility.

Indiana applied for a partial program determination of adequacy under Section 4005 of RCRA on June 3, 1993. The U.S. EPA reviewed Indiana's application and made a final determination of adequacy (58 FR 59261, November 8, 1993) for those portions of the MSWLF permit program that were adequate to ensure compliance with the revised Federal MSWLF Criteria. Indiana amended its original application and applied for full program approval on June 27, 1996. The U.S. EPA reveiwed Indiana's amended application and today is issuing a tentative determination of adequacy for all portions of Indiana's MSWLF permit program. Indiana's amended application for full program adequacy determination is available for public review and comment. The tentative determination will become final and effective sixty (60) days following the date of this publication if no adverse comments are received.

DATES: The determination of adequacy for Indiana shall be effective on December 9, 1996, unless adverse comments are received. If adverse comments are received, a second Federal Register Notice will be published describing these comments and the U.S. EPA's responses to the comments and decision on final adequacy.

All comments on Indiana's application for a full determination of adequacy must be received by the U.S. EPA Region 5 by the close of business on November 7, 1996.

ADDRESSES: Copies of Indiana's application for a full determination of adequacy are available for inspection and copying from 9 a.m to 4 p.m. during normal working days at the following addresses: Indiana Department of Environmental Management, 100 North Senate Avenue, Indianapolis, Indiana 46206, Attn: Ms. Lynn West; and U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Attn: Ms. Susan Mooney, mail code DRP–8J. All written comments should be sent to the EPA Region 5 Office.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Attn: Ms. Susan Mooney, mailcode DRP–8J, telephone (312) 886–3585.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, the U.S. EPA promulgated revised Federal MSWLF Criteria (40 CFR Part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the revised

Federal Criteria. Subtitle D also requires in Section 4005 that the U.S. EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal MSWLF Criteria. To fulfill this requirement, the Agency has proposed the State/Tribal Implementation Rule (STIR). The rule specifies the requirements which State/Tribal programs must satisfy to be determined adequate.

The U.S. EPA will review the State/Tribe's requirements to determine whether they are ''adequate'' under Section 4005(c)(1)(C) of RCRA. The U.S. EPA interprets the requirements for States or Tribes to develop ''adequate'' programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to the revised Federal MSWLF Criteria. Second, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe must also provide for public participation in permit issuance and enforcement as required in Section 7004(b) of RCRA. Third, the U.S. EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator who fails to comply with an approved MSWLF program.

The U.S. EPA Regions will determine whether a State/Tribe has submitted an ''adequate'' program based on the interpretation outlined above.

B. State of Indiana

On June 3, 1993, Indiana submitted an application to obtain a partial program adequacy determination for the State's municipal solid waste landfill permit program. On November 8, 1993, the U.S. EPA published a final determination of adequacy for Indiana's program. Further background on the final partial program determination of adequacy appears at 58 FR 59261, November 8, 1993.

On June 27, 1996 Indiana amended its June 3, 1993 application to apply for full program approval. The amended application includes a description of the changes made to Indiana's MSWLF permit program since the partial program approval.

The U.S. EPA has reviewed Indiana's amended application and has determined that the State's MSWLF permit program will ensure compliance with all portions of the revised Federal Criteria. Specifically, Indiana has adequately addressed those portions of its MSWLF permit program that were not approved in the partial determination of adequacy in November 1993. In addition to those portions of the State's MSWLF permit program that were approved on November 8, 1993, the U.S. EPA has determined that the State's revised MSWLF permit program will ensure adequacy with the following portions of the Federal criteria:

1. Definitions listed in 40 CFR 258.2
2. Location restrictions for airports (notification of FAA only), floodplains for existing MSWLF units, fault areas, seismic impact zones, unstable areas and closure of existing MSWLF units in 40 CFR 258.10(b), 258.11, 258.13, 258.14, 258.15, and 258.16.
3. Operating requirements for the exclusion of hazardous waste, quarterly monitoring of explosive gases, implementation of remediation plan for explosive gas control, and recordkeeping in 40 CFR 258.20, 258.23(b)(2), 258.23(c)(2) and (3), and 258.29.
4. Design requirements in 40 CFR 258.40.
5. Field filtering provisions in 40 CFR 258.53(b).
6. Detection and assessment groundwater monitoring programs and parameters that are consistent with the revised Federal Criteria in 40 CFR 258.54 and 258.55.
7. Corrective action, as described in 40 CFR 258.56, 258.57, and 258.58.
8. Final cover (40 CFR 258.60(a) and (b)), the maximum inventory of waste ever on-site in the closure plan (40 CFR 258.60(c)(3)), and the requirement to include a description of planned uses of the MSWLF in the post-closure care plan (40 CFR 258.61(c)(3)).
9. Financial assurance for corrective action (40 CFR 258.73).

As described in the November 8, 1993 partial program approval, Indiana's MSWLF permit program has the authority to issue permits that incorporate the requirements in the revised Federal MSWLF Criteria to all MSWLFs in the State. In addition, Indiana's permit program contains provisions for public participation, compliance monitoring, and enforcement.

The Indiana compliance monitoring program has the authority to obtain information from a MSWLF facility, as well as the authority to enter and inspect any MSWLF site or record pertaining to solid waste management, to determine compliance. Indiana has mechanisms to verify the accuracy of information submitted by a MSWLF facility to verify the sampling methods used by a MSWLF facility, and to produce evidence admissible in an enforcement proceeding. Indiana has the authority to conduct monitoring or testing to ensure compliance. Indiana inspects MSWLFs to verify and document compliance with solid waste regulations, deter violations, and provide opportunities to inform and educate the regulated community.

Indiana has the authority to implement the following remedies for violation of program requirements:

1. Authority to restrain a person from conducting an activity that may endanger or cause damage of human health or the environment;
2. Authority to sue an individual who is violating provisions of any statutes, regulations, orders, or permits that have been issued by the State; and
3. Authority to administratively assess penalties for violating statutes, regulations, orders, or permits.

C. Decision

After reviewing the amended application, I conclude that Indiana's application for full program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Indiana is granted a full program determination of adequacy.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of Section 7002 of RCRA to enforce the revised Federal MSWLF criteria in 40 CFR Part 258 independent of any State enforcement program. As the U.S. EPA explained in the preamble to the revised Federal MSWLF Criteria, the U.S. EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by the U.S. EPA should be considered to be in compliance with the revised Federal MSWLF Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect 60 days after the date of publication if no adverse comments are received.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Authority: This notice is issued under the authority of Section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: September 20, 1996.

Norman Niedergang,

Acting Regional Administrator.

[FR Doc. 96–25790 Filed 10–7–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1134–DR]

North Carolina; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Carolina, (FEMA–1134–DR), dated September 6, 1996, and related determinations.

EFFECTIVE DATE: September 16, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Carolina, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 6, 1996:

Buncombe County for Individual Assistance and Hazard Mitigation (already designated for Direct Federal Assistance.)

Bertie County for Public Assistance (already designated for Direct Federal Assistance, Individual Assistance and Hazard Mitigation.)

The counties of Caswell, Pitt and Scotland for Individual Assistance (already designated for Direct Federal Assistance, Public Assistance and Hazard Mitigation.)

The counties of Martin and Randolph for Individual Assistance (already designated for Direct Federal Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–25766 Filed 10–07–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1138–DR]

Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–1138–DR), dated September 13, 1996, and related determinations.

EFFECTIVE DATE: September 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Pennsylvania, resulting from flooding associated with Tropical Depression Fran on September 6–8, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Pennsylvania.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. If warranted, Public Assistance may be designated at a later date. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Pennsylvania to have been affected adversely by this declared major disaster:

Huntingdon, Juniata, Mifflin, Montgomery, and Perry Counties for Individual Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–25765 Filed 10–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1136–DR]

Puerto Rico; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico, (FEMA–1136–DR), dated September 11, 1996, and related determinations.

EFFECTIVE DATE: September 16, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Puerto Rico, is hereby amended to include Public Assisance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 11, 1996:

The municipalities of Aibonito, Ceiba, Cidra, Comerio, Guaynabo, Gurabo, Las Marias, Loiza, Maunabo, Rio Grande and Vega Alta for Hazard Mitigation (already designated for Individual Assistance).

The municipalities of Arroyo, Bayamon, Canovanas, Carolina, Cayey, Dorado, Guayama, Las Piedras, Ponce, Salinas, San Juan, San Lorenzo, Santa Isabel, Toa Baja, and Yabucoa for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

The municipalities of Augas Buenas, Barceloneta, Caguas, Ciales, Corozal, Humacao, Juncos, Morovis, Naguabo, Naranjito, Patillas and Toa Alta for

Individual Assistance, Public Assistance and Hazard Mitigation.

The municipalities of Catano, Guanica, and Hatillo for Individual Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–25767 Filed 10–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1135–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia (FEMA–1135–DR), dated September 6, 1996, and related determinations.

EFFECTIVE DATE: September 16, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 6, 1996:

The counties of Charlotte, Culpeper, and Stafford, and the independent cities of Lexington and Lynchburg for Individual Assistance (already designated for Direct Federal Assistance, Public Assistance and Hazard Mitigation).

The counties of Alleghany, Greene, Henry and Montgomery for Individual Assistance (already designated for Direct Federal Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance).

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–25768 Filed 10–7–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death of Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Carnival Corporation and Futura Cruises, Inc., Carnival Place, 3655 N.W. 87th Avenue, Miami, Florida 33178–2428.
Vessel: CARNIVAL DESTINY

Costa Cruis Lines N.V., Costa Crociere S.p.A and Prestige Cruises N.V., 80 S.W. 8th Street, Miami, Florida 33130–3097.
Vessel: COSTA VICTORIA

Royal Caribbean Cruises Ltd. and Airtours plc, 1050 Caribbean Way, Miami, Florida 33132–2096.
Vessel: SONG OF NORWAY

Regal Cruises Ltd., Regal Cruises Inc., Regal Enterprises Inc., and International Shipping Partners Inc., 4199 34th Street, Suite B103, St. Petersburg, Florida 33711.
Vessel: REGAL EMPRESS

Odessa American Cruise Company, Maritime Entertainment Ltd., Primexpress, Primexpress Cruise Company, Cruise Finance, Inc. and Firm Globus, 170 Old Country Road, Suite 608, Mineola, New York 11501.
Vessel: UKRAINA

Dated: October 3, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–25774 Filed 10–7–96; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnificaton of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Regal Cruises Ltd. (d/b/a Regal Cruises), Regal Cruises Inc. and Regal Enterprises Inc., 4199 34th Street, Suite B103, St. Petersburg, Florida 33711.
Vessel: REGAL EMPRESS

Hapag-Lloyd (America) Inc., Hapag-Lloyd Kreuzfahten GmbH and Kommanditgesellschaft MS ''Europa'' der Braschag Bremer, Schiffsvercharterungs Aktiengesellschaft Und Co. K.G., Bremen D–28215, German.
Vessel: EUROPA

Odessa America Cruise Company, Maritime Entertainment Ltd., Primexpress, Primepress Cruise Company, Cruise Finance, Inc. and Firm Globus, 170 Old Country Road, Suite 608, Mineola, New York 11501.
Vessel: UKRANINA

Dated: October 3, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–25775 Filed 10–7–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

A & A Freight Forwarding Co., Ltd., 120 Sylvan Avenue, Englewood Cliffs, NJ 07632, Officer: Gail Beckerman.

Leslie Ann O'Malley, 509 N.E. Jackson, Hillsboro, OR 97124, Sole Proprietor.

Central Shipping Services, 21483 Crozier Ave., Boca Raton, FL 33428, Ghaleb Paul Ghannoum, Sole Proprietor.

Colonial Storage Co. d/b/a Logistics International, 9900 Fallard Court, Upper Marlboro, MD 20772–3880, Officer: Richard C. Myers, President.

Dated: October 3, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–25776 Filed 10–7–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 22, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Paul A. Rowntree, Bedford, Texas; to acquire an additional 37.62 percent, for a total of 37.65 percent, of the voting shares of Mid-Cities Bancshares, Hurst, Texas, and thereby indirectly acquire Mid-Cities National Bank, Hurst, Texas.

Board of Governors of the Federal Reserve System, October 2, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–25753 Filed 10-7-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq*.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 1, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Columbus Bancorp, Inc., Indianapolis, Indiana; to acquire 24 percent of the voting shares of Salin Bank & Trust Company, Indianapolis, Indiana.

2. Salin Bancshares, Inc., Indianapolis, Indiana; to acquire 93 percent of the voting shares of Columbus Bancorp, Inc., Indianapolis, Indiana. and thereby indirectly acquire Columbus Bank and Trust Company, Columbus, Indiana.

3. G.R. Bancorp, Ltd., Grand Ridge, Illinois; to become a bank holding company by acquiring 83 percent of the voting shares of The First National Bank of Grand Ridge, Grand Ridge, Illinois.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Manistique Corporation, Manistique, Michigan; to acquire 100 percent of the voting shares of UP Financial, Inc., Ontonagon, Michigan, and thereby indirectly acquire The First National Bank in Ontonagon, Ontonagon, Michigan.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Oak Park Bancshares, Inc., Overland Park, Kansas; to acquire 100 percent of the voting shares of, and thereby merge with Hillcrest Bancshares, Inc., Kansas City, Missouri, and thereby indirectly acquire Hillcrest Bank, Kansas City, Missouri. Applicant also has applied to acquire The Olathe Bank, Olathe, Kansas.

Board of Governors of the Federal Reserve System, October 2, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–25751 Filed 10-07-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 22, 1996.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand,

Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Klein Bancorporation, Inc., Chaska, Minnesota; to directly engage *de novo* in providing data processing services, pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted throughout the State of Minnesota.

Board of Governors of the Federal Reserve System, October 2, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–25752 Filed 10-7-96; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 961–0067]

Castle Harlan Partners, II, L.P.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, modification of the planned combination of two of the four major competitors in the class rings market. The settlement resolves allegations that the proposed purchase of the class ring businesses of both Town & Country Corporation and CJC Holdings, Inc. by Class Rings, Inc., which is owned by Castle Harlan, could have raised prices to the more than 1.6 million high school and college students who purchase commemorative class rings in this country every year, by giving one firm nearly 45 percent of all class rings sold and more than 90 percent of class rings sold in retail stores. Under the settlement, the merger no longer includes Town & Country's Gold Lance, Inc. class ring business, which will continue as an independent competitor.

DATES: Comments must be received on or before December 9, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William J. Baer, Federal Trade Commission, H–374, 6th and Pennsylvania Ave, NW., Washington, DC 20580. (202) 326–2932.

George Cary, Federal Trade Commission, H–374, 6th and Pennsylvania Ave, NW., Washington, DC 20580. (202) 326–3741.

Howard Morse, Federal Trade Commission, S–3627, 6th and Pennsylvania Ave, NW., Washington, DC 20580. (202) 326–2949.

Joseph G. Krauss, Federal Trade Commission, S–3627, 6th and Pennsylvania Ave, NW., Washington, DC 20580. (202) 326–2713.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home page, on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis To Aid Public Comment on the Provisionally Accepted Consent Order

The Federal Trade Commission (''the Commission'') has accepted for public comment an agreement containing a consent order with Class Rings, Inc., Castle Harlan Partners II, L.P. (''Castle Harlan''), and the Town & Country Corporation (''Town & Country''). This agreement has been placed on the public record for sixty days for reception of comments from interested persons.

Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received and will decide whether it should with draw from the agreement or make final the agreement's order.

The Commission's investigation of this matter concerns the proposed acquisition by Class Rings, Inc., a wholly owned subsidiary of Castle Harlan, of certain assets of Town & Country and CJC Holdings, Incorporated (''CJC''). The Commission's proposed complaint alleges that Town & Country and CJC are two of four major manufacturers of class rings in the United States.

The agreement containing consent order would, if finally accepted by the Commission, settle charges that the acquisitions may substantially lessen competition in the manufacture and sale of class rings in the United States. The Commission has reason to believe that the acquisitions and agreements violate Section 5 of the Federal Trade Commission Act and the acquisitions would have anticompetitive effects and would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act if consummated, unless an effective remedy eliminates such anticompetitive effects.

The Commission's Complaint alleges that class rings are a uniquely American phenomenon and that class ring purchasers would not switch to other products even if prices for class rings increased significantly. The top four manufacturers of class rings—Jostens, Inc., CJC, Town & Country, and Herff Jones, Inc.—account for over 95% of all class rings sold. Moreover, CJC and Town & Country combined account for over 90% of class rings sold in retail jewelry stores and mass merchandisers. The Complaint further alleges that new entry into class rings or expansion by the fringe class ring manufacturers would not be timely or likely to deter or offset reductions in competition resulting from the proposed acquisitions. The Commission's Complaint alleges that the proposed acquisitions would lessen competition by eliminating competition between CJC and Town & Country, and would lead to higher prices.

The proposed order accepted for public comment contains provisions that would prohibit Class Rings, Inc., and Castle Harlan from Acquiring Gold Lance, Inc. (''Gold Lance''), a subsidiary of Town & Country. The purpose of this provision is to ensure the continuation of Gold Lance as an independent competitor in the manufacture and sale of class rings and to remedy the lessening of competition as alleged in the Commission's Complaint. In effect, this order is equivalent to an injunction preventing the acquisition of Gold Lance by Class Rings, Inc., and Castle Harlan, and keeps Gold Lance in the hands of Town & Country, a company well positioned to compete in the marketplace.

Moreover, the proposed order prohibits Class Rings, Inc., and Castle Harlan, for a period of ten years, from purchasing any interest in Town & Country or any assets from Town &

Country used for the design, manufacture, or sale of class rings without the prior approval of the Commission. The proposed order also prohibits Town & Country, for a period of ten years, from purchasing any interest in Castle Harlan or Class Rings, Inc., or any assets from Castle Harlan or Class Rings, Inc., used for the design, manufacture, or sale of class rings without the prior approval of the Commission. Town & Country, however, may purchase assets from Class Rings, Inc., or Castle Harlan totaling not more than $2 million in any twelve month period. The purpose of these provisions is to ensure that Class Rings, Inc. and Town & Country remain independent from each other, thereby fostering a competitive environment for the sale of class rings.

The proposed order also prohibits Castle Harlan and Class Rings, Inc., for a period of one year from the date this proposed order becomes final, from employing or seeking to employ any person who is or was employed at any time during calendar year 1996 by Gold Lance or Town & Country in the design, manufacture or sale of class rings. The purpose of this provision to ensure that Town & Country, through Gold Lance, remains a viable competitor in the manufacture and sale of class rings.

An interim agreement was also entered into by the parties and the Commission that requires Class Rings, Inc., Castle Harlan, and Town & Country to be bound by the terms of the proposed order, as if it were final, from the date that Class Rings, Inc. and Castle Harlan signed the proposed order.

The purpose of this analysis is to invite public comment concerning the proposed order. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify their terms in any way.

Donald S. Clark,
Secretary.

Statement of Commissioner Mary L. Azcuenaga Concurring in Part and Dissenting in Part

In *Class Rings, Inc.*, File No. 961–0067

Today the Commission accepts for public comments a consent agreement resolving allegations that the proposed acquisitions by Class Rings, Inc., a newly created subsidiary of Castle Harlan Partners II, L.P., of certain assets of Town & Country Corp. (two subsidiaries, Gold Lance, Inc., and L.G. Balfour, Inc.) and CJC Holdings, Inc., would be unlawful. The proposed order prohibits the acquisition of Gold Lance.

I concur, except with respect to the prior approval provisions in Paragraphs III and IV of the proposed order, which are inconsistent with the ''Statement of Federal Trade Commission Policy Concerning Prior Approval and Prior Notice Provisions'' (''Prior Approval Policy Statement'' or ''Statement''). In its Statement, the Commission announced that it would ''rely on'' the Hart-Scott-Rodino premerger notification requirements in lieu of imposing prior approval or prior notice provisions in its orders. Although the Commission reserved its power to use prior approval or notice ''in certain limited circumstances,'' it cited only a single situation in which a prior approval clause might be appropriate, that is, ''where there is a credible risk that a company'' might attempt the same merger.

The complaint does not allege any facts showing a ''credible risk'' that the parties might attempt to acquire Gold Lance a second time. Nor am I aware of any reason to think that the parties have a concealed plan or intention to circumvent the order by doing so. Of course, as evidenced by their premerger notification report filed pursuant to the requirements of the Hart-Scott-Rodino Act, the parties wanted to acquire Gold Lance, but every merger case involves parties who want to combine firms or assets.

As I understand it, the primary reason for assuming that the parties will try again is that they seemed so much to want to consummate this transaction. The intensity of the parties' interest in a proposed transaction as perceived by the Commission (even assuming that we can distinguish between the vigor of their legal representation and the intensity of their own feelings) has no established predictive value of the likelihood that parties will again attempt a transaction now known to be viewed unfavorably by the FTC. In addition, the intensity of their feelings as perceived by the Commission is unlikely to result in an evenhanded selection of exceptions to our prior approval policy.

It also has been suggested that one reason for imposing a prior approval requirement is that the Commission is prohibiting the acquisition of Gold Lance, rather than allowing it subject to a divestiture requirement, under which the Commission supervises the divestiture. In fact, however, the choice of remedy is not predictive of the likelihood of recurrence. Once a divestiture has been accomplished, the Commission has no greater ability to deter a particular transaction than it will here.

I am most sympathetic to the concern that if the parties attempted to repeat the transaction in the future, the Commission might be faced with a significant duplicative expenditure of resources. That is one of the reasons I dissented from the Commission's Prior Approval Policy Statement. Dissenting Statement of Commissioner Mary L. Azcuyenaga on Decision to Abandon Prior Approval Requirements in Merger Orders, 4 CCH Trade Reg. Rep. ¶ 13,241 at 20,992 (1995). But given that we have the policy, it seems to me incumbent on the Commission either to live by it or to change it.[1]

[FR Doc. 96–25738 Filed 10–7–96; 8:45 am]
BILLING CODE 6750–01–M

[File No. 932–3297]

Telebrands Corp., Ajit Khubani; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would among other things prohibit the Roanoke, Virginia-based mail and telephone order company—and an individual who is an officer and director of the company—from representing that the Sweda Power Antenna (a device purported to improve television and radio reception) provides the best, crispest, clearest or most focused television reception achievable without cable installation, and would require any claim about the relative or absolute performance, attributes, or effectiveness of any product intended to improve a television's or radio's reception, sound, or image to be truthful and supported by competent and reliable evidence. The consent agreement would also prohibit the respondents from making a number of false or unsubstantiated claims about the WhisperXL (a purportedly major breakthrough in sound enhancement technology). The consent agreement resolves allegations in an accompanying complaint that the respondents made unsubstantiated and false claims in advertising for the Sweda Power Antenna and the WhisperXL, and misrepresented a money-back guarantee with respect to the Sweda Power Antenna. A related federal district court decree will require the respondents to

[1] *See* Dissenting Statement of Commissioner Mary L. Azcuenaga in The Vons Companies, Inc., Docket No. C–3391 (May 24, 1996).

pay a $95,000 civil penalty, and will prohibit them from violating the Commission's Mail or Telephone Order Merchandise Rule.

DATES: Comments must be received on or before December 9, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room H–159, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Michael Bloom, New York Regional Office, Federal Trade Commission, 150 William Street, 13th Floor, New York, New York 10038–2603, (212) 264–1207. Donald G. D'Amato, New York Regional Office, Federal Trade Commission, 150 William Street, 13th Floor, New York New York 10038–2063, (212) 264–1223.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home page, on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Telebrands Corp. (''Telebrands'') and Ajit Khubani. Proposed respondents are marketers of varied products, including the Sweda Power Antenna and the WhisperXL, which were subjects of this investigation.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The Commission's complaint charges that the proposed respondents made the following unsubstantiated and false representations about the Sweda Power Antenna: (1) Sweda Power Antenna provides the best, crispest, clearest, or most focused television reception achievable without cable installation; (2) Sweda Power Antenna takes a television or radio signal and electronically boosts it before it gets to a television or radio; and (3) the installation of a Sweda Power Antenna will more effectively improve television's or radio's reception, sound, or image than the installation of a television or radio dish antenna.

Further, the complaint alleges that the proposed respondents failed to timely honor their money back guarantee for the Sweda Power Antenna.

Part I of the proposed order prohibits proposed respondents from representing that the Sweda Power Antenna provides the best, crispest, clearest or most focused television reception achievable without cable installation or will more effectively improve a television's or radio's reception, sound, or image than the installation of a television or satellite or external dish antenna.

Part II of the proposed order requires that any claim proposed respondents make that the Sweda Power Antenna takes a television or radio signal and electronically boosts it before it gets to a television or radio be truthful and supported by competent and reliable evidence. Similarly, Part III of the proposed order requires that any claim about the relative or absolute performance, attributes, or effectiveness of any product intended to improve a television's or radio's reception, sound, or image be truthful and supported by competent and reliable evidence.

Part IV of the proposed order prohibits the proposed respondents from misrepresenting, by act or omission, any guarantee of satisfaction or refund offer in connection with the advertising or sale of any product, and requires the proposed respondents to make a full refund of the purchase price, as well as any shipping, insurance, and handling charges, within seven business days of receiving the consumer's request for the guaranteed refund. The proposed order permits the respondents to exclude fees, such as handling charges, paid by the consumer from the terms of the guarantee of satisfaction or refund offer so long as the exclusion is clear, conspicuous, and in close proximity to the guarantee of satisfaction or refund offer.

With respect to the WhisperXL, the complaint charges that the proposed respondents made the following unsubstantiated and false representations about the WhisperXL: (1) WhisperXL is a major breakthrough in sound enhancement technology; (2) WhisperXL is an effective hearing aid; (3) WhisperXL is designed to produce or produces clear amplification of whispered or normal speech, television, radio, or other mid- to high-frequency sounds at a distance of more than a few feet; (4) WhisperXL allows the user to hear a whisper from as far as 100 feet away; and (5) WhisperXL allows the user to hear a pin drop from 50 feet away.

Part V of the proposed order prohibits the proposed respondents from making these claims for the WhisperXL. Further, Part VI of the proposed order requires that any claim respondents make about the relative or absolute performance, attributes, or effectiveness of any hearing aid be truthful and supported by competent and reliable evidence.

The proposed order contains recordkeeping requirements for materials that substantiate, qualify, or contradict claims covered by the proposed order (Part VII), and requires the proposed respondents to keep and maintain all records demonstrating compliance with the terms and provisions of the order (Part VIII). Parts IX and X of the proposed order require distribution of a copy of the order to current and future officers and agents. Part XI provides for Commission notification upon a change in the corporate respondent and Part XII requires Commission notification when the individual respondent changes his present business or employment.

Part XIII provides for the termination of the order after twenty (20) years under certain circumstances. Part XIV obligates proposed respondents to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–25668 Filed 10–7–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 961–0060]

Wesley-Jessen Corporation; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would, among other things, require the Des Plaines, Illinois-based maker of opaque contact lenses to divest the opaque lens business of its main rival, Pilkington Barnes Hind International, Inc. The Commission had alleged that the merger of Wesley-Jessen, which manufactures the Durasoft line of opaque lenses, and Pilkington Barnes Hind, which makes the Natural Touch line, would give the merged firm more than 90 percent of the opaque contact lens market, potentially resulting in higher consumer prices and reduced innovation or quality for the lenses.

DATES: Comments must be received on or before December 31, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room H–159, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: William J. Baer, Federal Trade Commission, H–374, 6th and Pennsylvania Ave, NW., Washington, DC 20580. (202) 326–2932.

George C. Cary, Federal Trade Commission, H–374, 6th and Pennsylvania Ave, NW., Washington, DC 20580. (202) 326–3741.

Ann Malester, Federal Trade Commission, S–2308, 6th and Pennsylvania Ave, NW., Washington, DC 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home page, on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted subject to final approval an agreement containing a proposed Consent Order from Wesley-Jessen Corporation (''Wesley-Jessen'') which requires Wesley-Jessen to divest the opaque contact lens business of Pilkington Barnes Hind International, Inc. (''PBH'') to a Commission-approved purchaser by January 24, 1997, four (4) months from the date the agreement was signed. PBH's Opaque Lens Business includes an exclusive license under PBH's patents and a non-exclusive license under other patents owned by Wesley-Jessen relating to the manufacture and sale of opaque lenses in the United States. Further, Wesley-Jessen has agreed to enter into a contract manufacturing supply agreement which requires Wesley-Jessen to supply the acquirer with PBH's opaque lenses while the acquirer obtains its own FDA approvals.

Opaque contact lenses are lenses that completely change the color of the wearer's eyes, *e.g.*, wearing opaque lenses, a brown-eyed person can appear blue-eyed. Wesley-Jessen and PBH dominate the opaque lens market in the United States, accounting for over 90% of all opaque lens sales. Wesley-Jessen, in acquiring PBH, is buying its main rival in the opaque contact lens market. The possibility of new entry in response to a post-merger price increase is very remote because of barriers presented by broad industry patents governing the design and manufacture of opaque lenses. The proposed complaint alleges that the acquisition, if consummated, would result in higher prices, lower quality and less innovation in the opaque contact lens market.

On March 27, 1996, Wesley-Jessen and PBH signed a Letter of Intent whereby Wesley-Jessen would acquire 100 percent of the voting securities of PBH, voting securities of certain foreign issuers controlled by PBH and certain assets located outside the United States for approximately $80 million. The proposed complaint alleges that the proposed acquisition would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45, in the market for the sale of opaque contact lenses in the United States.

The proposed Consent Order preserves competition in the opaque contact lens market while allowing Wesley-Jessen to increase production and sales volumes in its broader conventional contact lens business. The proposed Order would remedy the alleged violation in the opaque contact lens market by ensuring that an acquirer of the PBH Opaque Lens Business would be in the same competitive position that PBH is in today as a manufacturer and seller of opaque contact lens in the United States. The Order requires that the acquirer secure the requisite FDA approvals to begin its own production of opaque contact lenses within eighteen months from Commission approval of the acquirer.

Additionally, the proposed Consent Order provides that within three (3) months of the date the Order is signed, the Commission may appoint a trustee to monitor Wesley-Jessen's and the acquirer's performance of their respective responsibilities. In the event that Wesley-Jessen has not divested the PBH Opaque Lens Business within four (4) months to an acquirer approved by the Commission, the Commission may direct the trustee described earlier in this paragraph to divest PBH's Opaque Lens Business.

Also, the Consent Order prohibits Wesley-Jessen, for a period of ten (10) years, from acquiring any interest in any entity engaged in the development, manufacturer and sale of opaque contact lenses in the United States without prior notice to the Commission.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–25739 Filed 10–7–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center; Senior Executive Service; Performance Review Board Members

Title 5, U.S. Code, Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that appointment of Performance Review Board members be published in the Federal Register.

Dated: September 30, 1996.

Lynnda M. Regan,

Director, Program Support Center.

The following persons will serve on the Performance Review Board which oversees the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services in the Program Support Center:

John C. West, Chairperson
Lawrence S. Cohan
Luana Reyes
William A. Robinson, M.D.

[FR Doc. 96–25727 Filed 10–7–96; 8:45 am]
BILLING CODE 4160–17–M

Food and Drug Administration

[Docket No. 95D–0377]

Advertising and Promotion; Guidances

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The agency is publishing two guidances entitled ''Guidance to Industry on Dissemination of Reprints of Certain Published, Original Data'' and ''Guidance for Industry Funded Dissemination of Reference Texts.'' These guidances relate to the dissemination, by sponsors of human and animal drugs, medical devices, and biological products of certain reprints of journal articles and reference texts (medical textbooks and compendia), which contain information concerning FDA-approved products that may not be consistent with the approved labeling for the products. These guidances describe the circumstances under which the agency intends to allow the dissemination of these reprints and reference texts to health care professionals. These guidances are intended to assist the agency in fulfilling its mission to help ensure the safety and effectiveness of human and animal drugs, medical devices, and biological products. The full texts of these guidances are published in this document.

FOR FURTHER INFORMATION CONTACT:
Regarding general questions: Ilisa B. G. Bernstein, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, rm. 15–74, Rockville, MD 20857, 301–827–3380, or via Internet at IBERNSTE@BANGATE.FDA.GOV;
Regarding human drugs: Patrick O'Brien, Center for Drug Evaluation and Research (HFD–40), Food and Drug Administration, 5600 Fishers Lane, rm. 17B–17, Rockville, MD 20857, 301–827–3901, or via Internet at OBRIENP@CDER.FDA.GOV;
Regarding animal drugs: Edward L. Spenser, Division of Surveillance (HFV–210), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722, or via Internet at ESPENSER@BANGATE.FDA.GOV;
Regarding medical devices: Byron L. Tart, Center for Devices and Radiological Health (HFZ–302), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20879, 301–594–4639, or via Internet at BXT@FDADR.CDER.FDA.GOV;
Regarding biological products: Toni M. Stifano, Center for Biologics Evaluation and Research (HFM–202), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3028, or via Internet at STIFANO@CBER.FDA.GOV

SUPPLEMENTARY INFORMATION: In the Federal Register of December 8, 1995 (60 FR 63384), FDA published and sought public comment on two draft guidances entitled ''Guidance to Industry on Dissemination of Reprints of Certain Published, Original Data'' and ''Guidance for Industry Funded Dissemination of Reference Texts.'' These guidances relate to the dissemination, by sponsors of human and animal drugs, medical devices, and biological products, of certain reprints of journal articles and reference texts (medical textbooks and compendia), which contain information concerning FDA-approved products that may not be consistent with the approved labeling for the products.

The agency received over 57 comments in response to the request for comments on the draft guidances. The comments came from drug and device manufacturers, professional health organizations, industry trade organizations, patient advocacy organizations, health communications specialists, attorneys, and health professionals. The agency has reviewed and considered these comments in its analysis of whether and what changes should be made in finalizing these guidances. As a result of this analysis, the agency has determined that no changes need to be made to the ''Guidance to Industry on Dissemination of Reprints of Certain Published, Original Data.'' The ''Guidance for Industry Funded Dissemination of Reference Texts'' remains essentially unchanged; except in the discussion of circumstances for dissemination of reference texts, FDA added an additional circumstance concerning product promotion, as noted below.

The agency received several comments claiming that the guidance on dissemination of certain reprints does not go far enough, arguing that companies should be permitted to disseminate any article they choose, regardless of what information is discussed in the article or whether the information is consistent with the approved product labeling. The agency also received several comments that gave specific suggestions of the types of articles that should be permitted under a policy with a broader scope (e.g., all peer-reviewed articles, technical reports). FDA believes that the guidances that are the subject of this notice strike the proper balance between the need for an exchange of reliable scientific data and information within the health care community, and the statutory requirements that prohibit companies from promoting products for unapproved uses. However, the agency will continue to evaluate its policies related to the advertising and promotion of FDA-regulated products, and these guidances are just one part of its policy in this area.

The agency also received comments seeking clarification of certain aspects of the guidances. Although these comments were considered in determining the final version of these guidances, they are not individually addressed in this notice. The agency welcomes questions from interested parties regarding the practical application of these guidances. Specific questions should be directed to the appropriate persons within the agency who address advertising and promotion issues for the particular regulated product. (See contact persons above.)

One comment suggested that sponsors should not be allowed to use reprints or reference texts as a tool to promote unapproved uses of their products. The agency does not intend for these materials to be used in this way. Upon consideration, the agency has determined that an additional ''circumstance'' should be added to the

guidance on reference texts making it clear that company representatives should not refer to, or otherwise promote, information in the reference text that is not consistent with the approved labeling for a product.

The texts of the final guidance documents follow:

Guidance to Industry on Dissemination of Reprints of Certain Published, Original Data [1]

I. Purpose of Guidance

Sponsors frequently want to disseminate reprints of articles reporting the results of the effectiveness trials that have been relied on by FDA in its approval or clearance of a drug, device, or biologic product. However, such articles may contain effectiveness rates, data, analyses, uses, regimens, or other information that is different from the approved labeling, and might, if disseminated by the sponsor, be considered violative promotional activities.

Nonetheless, the agency intends to allow sponsors to disseminate reprints of articles that represent the peer-reviewed, published version of original efficacy trials, under the circumstances described in section II., below.

II. Circumstances for Dissemination of Certain Journal Articles Discussing FDA-Approved Products

1. The principal subject of the article should be the use(s) or indication(s) that has been approved by FDA. The article should be published in accordance with the regular peer-review procedure of the journal in which it is published, and the article should report the original study that was represented by the sponsor, submitted to FDA, and accepted by the agency as one of the adequate and well-controlled studies providing evidence of effectiveness. In the case of a medical device, this guidance also applies to studies that were otherwise represented by the sponsor, submitted to the agency, and accepted by the agency as valid and material evidence of safety or effectiveness in lieu of adequate and well-controlled studies;

2. The reprint should be from a bona fide peer-reviewed journal. A bona fide peer-reviewed journal is a journal that uses experts to objectively review and select, reject, or provide comments about proposed articles. Such experts should have demonstrated expertise in the subject of the article under review, and be independent from the journal;

3. If the article contains effectiveness rates, data, analyses, uses, regimens, or other information that is different from approved labeling, the reprint should prominently state the difference(s), with specificity, on the face of the reprint. One acceptable means of achieving the appropriate prominence for this statement is to permanently affix to the reprint a sticker stating the differences; and

4. The reprint should disclose all material facts and should not be false or misleading.

Guidance for Industry Funded Dissemination of Reference Texts [2]

I. Purpose of Guidance

Sponsors have expressed a desire to disseminate reference texts, i.e., medical textbooks and compendia, to health care professionals. These texts typically discuss a wide range of medical diagnoses and treatments, including drug product utilization, surgical techniques, and other medical topics, and are often useful to clinicians in the practice of medicine.

Reference texts often contain information about the use of drugs, devices, or biologic products in the treatment, diagnosis, or prevention of disease that may not be consistent with the FDA-approved labeling for the products (e.g., discussion of unapproved uses). While many textbooks do not necessarily highlight a particular drug or device manufacturer's products, the dissemination of these reference texts by regulated industry may still be in conflict with the Federal Food, Drug, and Cosmetic Act (the act) and implementing regulations. [3]

Nonetheless, FDA intends to permit the distribution of sound, authoritative materials that are written, published, and disseminated independent of the commercial interest of a sponsoring company and are not false or misleading. FDA, therefore, intends to allow sponsors to disseminate reference texts that discuss human or animal drug, device, or biologic products, under the circumstances described in section II., below.

II. Circumstances for Dissemination of Reference Texts

1. The reference text should not have been written, edited, excerpted, or published specifically for, or at the request of, a drug, device, or biologic firm, unless the text was prepared in a manner that results in a balanced presentation of the subject matter (see III. below);

2. The content of the reference text should not have been reviewed, edited, or significantly influenced by a drug, device, or biologic firm, or agent thereof, unless the text was prepared in a manner that results in a balanced presentation of the subject matter (see III. below);

3. The reference text should not be distributed only or primarily through drug, device, or biologic firms (e.g., it should be generally available for sale in bookstores or other distribution channels where similar books are normally available);

4. The reference text should not focus primarily on any particular drug(s), device(s), or biologic(s) of the disseminating company, nor should it have a significant focus on unapproved uses of the drug(s), device(s), or biologic(s) marketed or under investigation by the firm supporting the dissemination of the text;

5. Specific product information (other than the approved package insert) should not be physically appended to the reference text; and

6. A drug, device, or biological product company representative should not refer to, or otherwise promote, in any manner or at any time, information in the reference text that is not consistent with the approved labeling for a product.

III. Exception

The agency recognizes that there are some useful reference texts that are written, edited, or published by a sponsor or agent of a sponsor. In those instances, where the authorship, editing, and publishing of the reference text results in a balanced presentation of the subject matter, FDA intends to allow the distribution of a reference text under the circumstances described in paragraphs 3 through 6 above. Typically, evidence of a balanced presentation of the subject matter would consist of an authorship and editorial process that fosters input from a relatively wide spectrum of sources and allows for consideration of information from all sources.

Dated: October 1, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–25728 Filed 10–7–96; 8:45 am]

BILLING CODE 4160–01–F

[1] This guidance does not apply to reprints of articles that discuss the specific prohibited uses of animal drugs listed in FDA's Center for Veterinary Medicine's Compliance Policy Guide 7125.06 or the Animal Medicinal Drug Use Clarification Act implementing regulations. Although this guidance does not create or confer any rights on any person and does not operate to bind FDA in any way, it does represent the agency's current thinking on the dissemination of reprints of certain published, original data. The agency will consider individual circumstances on a case-by-case basis.

[2] Although this guidance does not create or confer any rights, on any person, and does not operate to bind FDA in any way, it does represent the agency's current thinking on industry funded dissemination of reference texts. Although FDA believes that this guidance encompasses the vast majority of reference texts, the agency will consider, on a case-by-case basis, reference texts that do not fall within the parameters of this guidance document. This guidance does not apply to textbooks or compendia that discuss the specific prohibited uses or animal drugs listed in the Center for Veterinary Medicine's Compliance Policy Guide 7125.06 or the Animal Medicinal Drug Use Clarification Act implementing regulations.

[3] Printed materials, such as medical textbooks and compendia, which supplement, explain, or are textually related to a regulated product are considered labeling for that product when disseminated by or on behalf of the manufacturer, packer, or distributor of the product. See section 201(m) of the act (21 U.S.C. 321(m)) and *Kordel* v. *United States*, 338 U.S. 345, 350 (1948).

[Docket No. 96M–0357]

Medtronic, Inc.; Premarket Approval of the CapSureFix® Pacing Lead, Model 4068

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Medtronic, Inc., Minneapolis, MN, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the CapSureFix® Pacing Lead, Model

4068. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of March 29, 1996, of the approval of the application.

DATES: Petitions for administrative review by November 7, 1996.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tara A. Ryan, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8243.

SUPPLEMENTARY INFORMATION: On November 1, 1993, Medtronic, Inc., Minneapolis, MN 55432–3576, submitted to CDRH an application for premarket approval of the CapSureFix® Pacing Lead, Model 4068. The device is a permanent implantable cardiac pacemaker electrode (lead) and is designed to be used with a pulse generator as part of a cardiac pacing system. The lead has application where implantable atrial or ventricular, single chamber or dual chamber pacing systems are indicated.

In accordance with the provisions of section 515(c)(2) of the act (21 U.S.C. 360e(c)(2)) as amended by the Safe Medical Devices Act of 1990, this premarket approval application (PMA) was not referred to the Circulatory System Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel.

On March 29, 1996, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 7, 1996 file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 20, 1996.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 96–25812 Filed 10–7–96; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given to the meetings of the National Cancer Institute Special Emphasis Panel (SEP):

Name of SEP: Development of Dosage Forms & Delivery Systems for Antitumor and Anti-AIDS Agents.

Date: October 4, 1996.

Time: October 4—8:30 am.

Place: Executive Plaza North, Conference Room G, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Dr. Courtney Michael Kerwin, Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 601, 6130 Executive Boulevard MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7421.

Purpose/Agenda: This meeting will be devoted to the review, discussion, and evaluation of a grant application.

Name of SEP: Modulation of Apoptosis to Improve Cancer Therapy.

Date: October 6–7, 1996.

Time: October 6—8 pm, October 7—8 am.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Dr. David Irwin, Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 635E, 6130 Executive Boulevard MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/406–0371.

Purpose/Agenda: This meeting will be devoted to the review, discussion, and evaluation of a grant application.

Name of SEP: Evaluation of Chemopreventive Agents by In Vitro Techniques.

Date: October 7, 1996.

Time: October 7—2 pm.

Place: Executive Plaza North, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Dr. Lalita D. Palekar, Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 601, 6130 Executive Boulevard MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7575.

Purpose/Agenda: This meeting will be devoted to the review, discussion, and evaluation of a grant application.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being submitted less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: October 3, 1996.

Paula N. Hayes,

Acting Management Officer, NIH.

[FR Doc. 96–25861 Filed 10–3–96; 4:51 pm]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 4086–N–57]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* November 7, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 24, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposal Information Collection to OMB

Title of Proposal: Application for Approval—FHA Lender and/or Ginnie Mae Mortgage-Backed Securities Issuer.

Office: Government National Mortgage Association.

OMB Approval Number: 2503–0012.

Description of the Need for the Information and its Proposed Use: This form is used by mortgage lenders who wish to apply to become a FHA-approved lender or loan correspondent under the Title I and/or Title II program and/or an approved issuer with Ginnie Mae. The form requires lenders to provide specific information about their mortgage lending operations, business background and experience. It sets out the information FHA/Ginnie Mae requires to determine if the applicant meets FHA/Ginnie Mae eligibility requirements.

Form Number: HUD–11701/92001.

Respondents: Business or Other For-Profit and the Federal Government.

Frequency of Submission: Annually and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hour per response	=	Burden hours
FHA	1,800		1		.50		900
Ginnie Mae	50		1		.75		38

Total Estimated Burden Hours: 938.

Status: Extension, without changes.

Contact: Sonya K. Suarez, HUD, (202) 708–2772 x4975; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 24, 1996.

[FR Doc. 96–25756 Filed 10–7–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–FR–4086–N–56]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 7, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including

number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 24, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Local Appeals to Single Family Mortgage Limits.

Office: Housing.

OMB Approval Number: 2502–0302.

Description of the Need for the Information and its Proposed Use: The FHA single-family maximum mortgage limit is established as 38 percent of the Freddie Mac conforming limits (currently $77,197), but may increase up to 75 percent of these limits (currently $152,362) in high cost areas. HUD will raise the limits above the 38 percent ceiling if housing sales price data is received from interested parties (primarily homebuilders, mortgage lenders, and realtors) which justifies an increase.

Form Number: None.

Respondents: Individuals or Households, Business or Other For-Profit, and Not-For-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	80		1		40		3,200

Total Estimated Burden Hours: 3,200.

Status: Reinstatement, without changes.

Contact: Maynard Curry, HUD, (202) 708–2121 x2216; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 24, 1996.

[FR Doc. 96–25757 Filed 10–7–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4086–N–55]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATE: Comment due date: November 7, 1996.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 24, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Title of Proposal: Monthly Reports for Establishing Net-Income.

Office: Housing.

OMB Approval Number: 2502–0108.

Descripton of the Need for the Information and its Proposed Use: Accounting reports submitted by selected owners and agents of Multifamily Projects will be used to monitor compliance with contractual agreements and to analyze cash flow trends as well as occupancy and rent collection levels. The reports will alert field staff of the need for remedial actions to correct deficiencies or the need for more aggressive servicing action.

Form Number: HUD–93479, 93480, and 93481.

Respondents: Business or Other For-Profit and Not-For-Profit Institutions.

Frequency of Submission: Monthly and Recordkeeping.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Monthly Reports	4,000		12		3.5		168,000
Recordkeeping	4,000		1		1		14,000

Total Estimated Burden Hours: 172,000.

Status: Reinstatements, without changes.

Contact: Barbara D. Hunter, HUD (202) 708–3944; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 24, 1996.

[FR Doc. 96–25758 Filed 10–7–96; 8:45 am]

BILLING CODE 4210–01–M

Office of Administration; Submission for OMB Review: Comment Request

[Docket No. FR 4086–N–54]

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 7, 1996.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 24, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Contractor's Requisition Project Mortgages.

Office: Housing.

OMB Approval Number: 2502–0028.

Description of the Need for the Information and its Proposed Use: Form HUD–92488 is used by the contractor to obtain distribution of insured mortgage proceeds when construction costs are involved. The form is needed by HUD to monitor construction progress and ensure compliance with the Davis-Bacon wage rates.

Form Number: HUD–92488.

Respondents: Business or Other For-Profit.

Frequency of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–92488	1,000		10		6		60,000

Total Estimated Burden Hours: 60,000.

Status: Reinstatement, without changes.

Contact: Roger M. Kramer, HUD, (202) 708–0624; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 24, 1996.

[FR Doc. 96–25759 Filed 10–7–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4061–N–02]

Office of the Assistant Secretary for Public and Indian Housing; Notice of Extension of Application Due Date for Selected Field Offices Because of Hurricanes Hortense and Fran; FY 1996 Notice of Funding Availability (NOFA) for Family Self-Sufficiency (FSS) Program Coordinators for the Section 8 Rental Certificate and Rental Voucher Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of extension of application due date for selected field offices because of Hurricane Hortense or Hurricane Fran for the FY 1996 Notice of Funding Availability (NOFA) for Family Self-Sufficiency (FSS) Program Coordinators for the Section 8 Rental Certificate and Rental Voucher Programs.

SUMMARY: This Notice is being published as a matter of record that HUD extended to September 20, 1996 the application due date for the FY 1996 NOFA for FSS Program Coordinators for the Section 8 Rental Certificate and Rental Voucher Programs, published on July 26, 1996, for applicants that submitted applications to the following HUD Offices: Greensboro, North Carolina and San Juan, Puerto Rico. In the interest of fairness to all competing HAs in the jurisdiction of these HUD Offices, HUD treated as ineligible for consideration any application that was not received before the application deadline.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Office of Public and Indian Housing,

Department of Housing and Urban Development, room 4220, 451 Seventh Street, SW, Washington, DC 20410–8000, telephone number (202) 708–0477. Hearing or speech impaired individuals may call HUD's TTY number (202) 708–4594. (These numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On July 26, 1996 (61 FR 3262), HUD published a notice announcing the availability of up to $9.2 million in FY 1996 funds for administrative fees for Section 8 FSS program coordinators. The application due date given in that publication was Monday, September 9, 1996. Several days prior to the deadline date for applications, Hurricane Fran hit North Carolina and Hurricane Hortense hit Puerto Rico and resulted in severe flooding and travel problems. These hurricanes also caused the HUD offices to close or made delivery of applications to the HUD offices on September 9, 1996 impossible. Therefore, for any housing agencies in North Carolina or Puerto Rico, HUD extended the deadline for applications to be submitted to the Greensboro, North Carolina and San Juan, Puerto Rico Offices until September 20, 1996.

Dated: October 2, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–25760 Filed 10–7–96; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–819903

Applicant: White Crane Trading Company, Gary Schwedock, President, Jersey City, New Jersey.

The applicant requests a permit to sell in interstate commerce Tennessee purple coneflower, *Echinacea tennesseensis,* and smooth coneflower, *Echinacea laevigata,* that have been reared from propagated stock via seeds collected from wild populations.

PRT–819901

Applicant: Charles V. Rabolli, Decatur, Georgia.

The applicant requests a permit to take (harass during population surveys and monitoring, install artificial cavities, and control hardwood vegetation in nest clusters) the endangered red-cockaded woodpecker, *Picoides borealis,* throughout the species range for the purpose of enhancement of survival of the species.

Written data or comments on these applications should be submitted to: Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Fax: 404/679–7081.

Dated: September 30, 1996.

Noreen K. Clough,

Regional Director.

[FR Doc. 96–25805 Filed 10–07–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[UT–912–06–0777–52]

Notice of Meeting of the Utah Resource Advisory Council

AGENCY: Bureau of Land Management, Utah.

SUMMARY: The Utah Resource Advisory Council (RAC) will meet from 8:00 a.m. to 4:00 p.m., November 1, 1996, at the Bureau of Land Management's Utah State Office, Room 302, 324 South State Street, Salt Lake City, Utah. The RAC will be reviewing the comments received from the public on the draft Standards and Guidelines for grazing management and preparing the final. RAC meetings are open to the public. A 30-minute comment period, whereby members of the public may address the Council, is scheduled at 8:00 a.m. Any member of the public interested in addressing the Council should contact Sherry Foot, Special Programs Coordinator, at (801) 539–4195, by October 30, 1996.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, Utah, 84111; phone (801) 539–4195 or (801) 539–4021.

Dated: October 1, 1996.

G. William Lamb,

Utah BLM State Director.

[FR Doc. 96–25772 Filed 10–7–96; 8:45 am]

BILLING CODE 4310–DQ–M

[AZ–942–06–1420–00]

Arizona State Office, Arizona; Notice of Filing of Plats of Survey

September 26, 1966.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and the subdivision of sections 4 and 5, and a metes-and-bounds survey, Township 1 North, Range 4 East, Gila and Salt River Meridian, Arizona, was approved July 26, 1996, and officially filed August 1, 1996.

A supplemental plat showing new lottings in the South East ¼, South East section 11, and the South West ¼ section 12, Township 5 South, Range 9 West, Gila and Salt River Meridian, Arizona, was approved July 31, 1996, and officially filed August 8, 1996.

A plat repesenting the dependent resurvey of a portion of the subdivisional lines, in Township 16 North, Range 13 West, Gila and Salt River Meridian, Arizona, was approved August 8, 1996, and officially filed August 15, 1996.

A plat, in 3 sheets, representing the dependent resurvey of the Fifth Standard Parallel North (north boundary), through a portion of Range 25 East, portions of the east and west boundaries, and a portion of the subdivisional ines, and the subdivision of section 28, and a metes-and-bounds survey, in Township 20 North, Range 25 East, Gila and Salt River Meridian, Arizona, was approved August 22, 1996, and officially filed September 5, 1996.

A supplemental plat showing amended lottings in section 28, Township 20 North, Range 25 East, Gila and Salt River Meridian, Arizona, was approved September 11, 1996, and officially filed September 19, 1996.

A plat, in 2 sheets, representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines and portions of certain mineral surveys, and the subdivision of sections 17 and 18, and a metes-and-bounds survey, in Township 1 North, Range 15 East, Gila

and Salt River Meridian, Arizona, was approved September 12, 1996, and officially filed September 19, 1996.

A plat repesenting the dependent resurvey of a portion of the south and east boundaries, and a portion of the subdivisional lines, and the metes-and-bounds survey of the North Maricopa Mountains Wilderness Area Boundary, in Township 3 South, Range 4 West, Gila and Salt River Meridian, Arizona, was approved September 17, 1996, and officially filed September 26, 1996.

A plat, in 3 sheets, representing the dependent resurvey of a portion of the south and east boundaries, and a portion of the subdivisional lines, and the metes-and-bounds survey of the North Maricopa Mountains Wilderness Area Boundary, in Township 4 South, Range 4, West, Gila and Salt River Meridian, Arizona, was approved September 17, 1996, and officially filed September 26, 1996.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquires relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

Dale C. Wilson,

Acting Chief Cadastral Surveyor of Arizona.

[FR Doc. 96–25679 Filed 10–7–96; 8:45 am]

BILLING CODE 4310–32–M

National Park Service

National Preservation Technology and Training Board: Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting of the National Preservation Technology and Training Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on November 4, 5, and 6, 1996, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training, as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet on the campus of Northwestern State University of Louisiana in the Board Room of the Louisiana School for Math, Science and the Arts at 715 College Street, Natchitoches, Louisiana. Matters to be discussed will include, staff program updates and the establishment of non-Federal support for the Center's programs.

Monday, November 4 and Tuesday, November 5 the meeting will start at 8:30 am and end at 5:00 pm. On Wednesday, November 6, the meeting will begin at 8:30 am and end at noon. Meetings will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Elizabeth A. Lyon, Chair, National Preservation Technology and Training Board, P.O. Box 1269, Flowery Branch, Georgia 30542.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may do so by contacting Mr. E. Blaine Cliver, Chief, HABS/HAER, National Park Service, P.O. Box 37127, Washington, DC 20013–7127, telephone: (202) 343–9573. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Preservation Assistance Division, Suite 200, 800 North Capitol Street, Washington, DC.

Dated: October 2, 1996.

E. Blaine Cliver,

Chief, Preservation Assistance Division, Designated Federal Official, National Park Service.

[FR Doc. 96–25702 Filed 10–7–96; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 28, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by October 23, 1996.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Johnson County

Munger House, W of Co. Rd. 416, approximately .75 mi. N of the Johnson and Pope Co. line, Lutherville vicinity, 96001174

CALIFORNIA

Contra Costa County

Bank of Pinole, 2361 San Pablo Ave., Pinole, 96001175

San Bernardino County

Barton Villa, 11245 Nevada St., Redlands, 96001176

San Diego County

Balboa Theatre, 868 4th Ave., San Diego, 96001177

FLORIDA

Dade County

Anhinga Trail. (Archeological Resources of Everglades National Park MPS), Address Restricted, Homestead vicinity, 96001178

Monroe Lake Archeological District. (Archeological Resources of Everglades National Park MPS), Address Restricted, Homestead vicinity, 96001184

Shark River Slough Archeological District. (Archeological Resources of Everglades National Park MPS), Address Restricted, Homestead vicinity, 96001181

Lee County

Casa Rio (Lee County MPS), 2424 McGregor Blvd., Fort Myers, 96001186

Monroe County

Bear Lake Mounds Archeological District (Archeological Resources of Everglades National Park MPS), Address Restricted, Flamingo vicinity, 96001182

Cane Patch (Archeological Resources of Everglades National Park MPS), Address Restricted, Everglades City vicinity, 96001179

Rookery Mound (Archeological Resources of Everglades National Park MPS), Address Restricted, Everglades City vicinity, 96001183

Ten Thousand Islands Archeological District (Archeological Resources of Everglades National Park MPS), Address Restricted, Everglades City vicinity, 96001180

Palm Beach County

Professional Building, 310 S. Dixie Hwy., West Palm Beach, 96001187

Pasco County

Hacienda Hotel, 5621 Main St., New Port Richey, 96001185

LOUISIANA

St. Tammany Parish

New Orleans and Northeastern—New Orleans and Great Northern Railroad Depot, 1809 Front St., Slidell, 96001188

MAINE

Sagadahoc County

Butterfield—Sampson House, 18 River Rd., Bowdoinham, 96001190

MISSOURI

Pettis County

Building at 217 West Main Street, 217 W. Main St., Sedalia, 96001189

NORTH DAKOTA

Walsh County

Grafton State School, 700 6th St., W., Grafton, 96001191

PENNSYLVANIA

Allegheny County

Lehner Grain-and-Cider Mill and House, Address Restricted, Verona vicinity, 96001202

Beaver County

Beaver Historic District, Roughly bounded by the C and P Railroad tracks, Fair Ave., 5th St., 3rd St., and Sassafras Ln., Beaver, 96001201

Berks County

Livingood House—Stryker Hospital, 417–419 Walnut St., Reading, 96001195

Chester County

Fairville Historic District, Kennett Pike between Fairville Rd. and Hickory Hill Rd., Pennsbury Township, Kennett Square vicinity, 96001200

Greenwood Farm, 888 West Valley Dr., Tredyffrin Township, Wayne vicinity, 96001196

Delaware County

Stonehaven, 484 Lenni Rd., jct. with New Rd., Borough of Chester Heights, Media vicinity, 96001197

Erie County

Boston Store, 716–728 State St., Erie, 96001194

Villa Maria Academy, 819 W. 8th St., Erie, 96001193

Fayette County

Frost, Josiah, House (National Road in Pennsylvania MPS), S side of US 40, W of Searight's Corners, Menallen Township, New Salem vicinity, 96001209

Mercer County

August, Wendell, Forge, 620 Madison St., Grove City, 96001192

Pierce, Jonas J., House, 18 E. Shenango St., Sharpsville, 96001206

Philadelphia County

St. Joseph's House for Homeless Industrious Boys, 1511 and 1515–1527 Allegheny Rd., Philadelphia, 96001204

Terminal Commerce Building, 401 N. Broad St., Philadelphia, 96001203

Somerset County

Hair, Matthew, Farm, Off PA 601, 1 mi. N of Boswell, Hollsopple, 96001207

Washington County

Beallsville Historic District (National Road of Pennsylvania MPS), Roughly, Main St., Chestnut Alley, and South Alley between West Alley and Oak Alley, Borough of Beallsville, Ellsworth vicinity, 96001205

Centerville Historic District (National Road in Pennsylvania MPS), Roughly, Old National Pike—US 40 from Linton Rd. to jct. of Old National Pike—US 40 and PA 481, Centerville, 96001208

Scenery Hill Historic District (National Road in Pennsylvania MPS), Roughly, National Pike East—US 40 between Scenery Hill Cemetery and Kinder Rd., Scenery Hill, 96001198

York County

Clear Spring Mill,
Jct. of Capitol Hill and Clear Spring Rd., W. corner, Franklin Township, Dillsburg vicinity, 96001199

SOUTH CAROLINA

Charleston County

Coming Street Cemetery, 189 Coming St., Charleston, 96001223

Horry County

Atlantic Coast Line Railroad Station, (Myrtle Beach MPS), Jct. of Oak St. and Broadway, between Jackson St. and 8th Ave., Myrtle Beach, 96001212

Chesterfield Inn, (Myrtle Beach MPS), 700 N. Ocean Blvd., Myrtle Beach, 96001218

Myrtle Heights—Oak Park Historic District, (Myrtle Beach MPS), Roughly, N. Ocean Blvd. between 32nd Ave., N. and 46th Ave., N., Myrtle Beach, 96001217

Ocean Forest Country Club, (Myrtle Beach MPS), 5609 Woodside Dr., Myrtle Beach, 96001219

Pleasant Inn, (Myrtle Beach MPS), 200 Broadway, Myrtle Beach, 96001220

Rainbow Court, (Myrtle Beach MPS), 405 Flagg St., Myrtle Beach, 96001221

Richland County

Sidney Park Colored Methodist Episcopal Church, 1114 Blanding St., Columbia, 96001222

SOUTH DAKOTA

Bon Homme County

Scotland Royal Theater, 565 Main St., Scotland, 96001224

Brookings County

St. Mary's School, 220 E. 3rd St., Elkton, 96001228

Campbell County

Pollock Depot, Ave. A, SW of SD 10, Pollock, 96001229

Day County

Barber, Charles A., Farmstead (Boundary Increase), .5 mi. W. of Lily, approximately 5 mi. W. of SD 25, Lily vicinity, 96001226

Edmunds County

Bierman—Brick Ranch, 14315 372nd Ave., Mansfield vicinity, 96001230

Fall River County

Edgemont Block, 610 2nd Ave., Edgemont, 96001232

Lawrence County

Baker Bungalow, 740 8th St., Spearfish, 96001231

Minnehaha County

Brooks Brothers Home, 1006—1008 South Dakota Ave., Sioux Falls, 96001225

Roberts County

Sisseton Carnegie Library, 215 Oak St., E., Sisseton, 96001227

TENNESSEE

Shelby County

Memphis National Cemetery (Civil War Era National Cemeteries MPS) 3568 Townes Ave., Memphis, 96001233

[FR Doc. 96–25810 Filed 10–07–96; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: The role of water transfers in the CALFED Bay-Delta long-term solution; the role and scope of the water use efficiency component; durability of the long-term solution; and updates on the finance and system integrity components of the program. This meeting is open to the public. Interested persons may make oral statements to the BDAC or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council meeting will be held from 10 a.m. to 5 p.m. on Friday, October 25, 1996.

ADDRESSES: The Bay-Delta Advisory Council will meet at the Sacramento Convention Center, 1400 J Street, Room 204, Sacramento, CA.

CONTACT PERSON FOR MORE INFORMATION: Sharon Gross, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that

must be made, the State of California and the Federal Government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The CALFED Bay-Delta Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the CALFED Bay-Delta Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff.

Minutes of the meeting will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: September 30, 1996.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 96–25781 Filed 10–7–96; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

[OJP(BJS) No. 1103]

ZRIN 1121–ZA52

Inventory of State Corrections Information Systems

AGENCY: Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS), U.S. Department of Justice.

ACTION: Solicitation for award of cooperative agreement.

SUMMARY: The purpose of this notice is to announce a public solicitation for services of data gathering, collection of file documentation, site visits, and data processing for an Inventory of State Corrections Information Systems.

DATES: Proposals must be postmarked on or before November 26, 1996.

ADDRESSES: Proposals should be mailed to: Application Coordinator, Bureau of Justice Statistics, Room 303, 633 Indiana Avenue NW., Washington, DC 20531, (202) 633–3004.

FOR FURTHER INFORMATION CONTACT: Allen J. Beck, Ph.D., Chief, Corrections Statistics, Bureau of Justice Statistics, (202) 633–3009.

SUPPLEMENTARY INFORMATION:

Background

The Inventory of State Corrections Information Systems is a collaborative effort sponsored by the Bureau of Justice Statistics (BJS), National Institute of Justice (NIJ), and Corrections Program Office (CPO), components of the Office of Justice Programs, U.S. Department of Justice. With assistance from the Association of State Corrections Administrators (ASCA), the inventory is designed to assess the current status of offender-based information systems in State departments of corrections and the Federal Bureau of Prisons.

In a series of meetings, correctional administrators, directors of research, and Directors and staff representatives of the National Institute of Corrections (NIC), the Federal Bureau of Prisons (BOP), NIJ, and BJS identified the need for developing or updating common data definitions in the corrections field. Correctional administrators expressed concern that they lack basic information needed to formulate new policies or to defend existing practices. Researchers highlighted the difficulties of conducting comparative studies in the absence of basic agreement on concepts and definitions, and the diversity in the quality and coverage of data elements available in State correctional information systems.

BJS is the lead agency for this study because of its long-term experience in data collection and development of information systems. BJS's corrections statistics program maintains numerous national statistical collections, which rely on data supplied by Federal, State, and local correctional administrators. These programs include the National Corrections Reporting Program (NCRP), National Prisoners Statistics, Censuses of Jails, Prisons, Probation and Parole Agencies, Annual Survey of Jails, and Annual Probation and Parole Data Surveys. These programs rely on uniform measurement rules, standardized concepts and definitions, and common reporting criteria. Further information about these data series, and the latest publications, are available electronically on the Internet at http://www.ojp.usdoj.gov/bjs/

The NCRP provides a model for collecting offender-based information. Begun in 1983 NCRP combined the National Prisoners Statistics program (NPS) on prison admissions and releases and the Uniform Parole Reports (UPR) into one reporting system. In 1994, 39 States, the District of Columbia, and California Youth Authority participated in NCRP, providing individual-level data on prisoners admitted to prison, released from prison, or released from parole. Participation in the NCRP is incomplete, however. 11 States do not participate, and among some participants, the data reported differ from NCRP reporting standards.

The Inventory of State Corrections Information Systems will help answer the questions raised by correctional administrators and researchers, identify obstacles to more complete participation in NCRP, determine what assistance States may need to develop improved offender-based statistical data systems, and outline the factors underlying variations in completeness or consistency in data elements and definitions among participating jurisdictions.

Objectives

The purpose of this award is to conduct an inventory of all State-level and BOP offender-based correctional information systems. It is anticipated that the collected information will be useful in improving Federal, State and local data collection and information systems.

Type of Assistance

Assistance will be made available under a cooperative agreement.

Statutory Authority

The cooperative agreement to be awarded pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with its mandate as set forth in 42 U.S.C. 3732.

Eligibility Requirements: Both profit making and nonprofit organizations may apply for funds. Consistent with OJP fiscal requirements, however, no fees may be charged against the project by profit-making organizations.

Scope of Work

The object of this solicitation is to provide an inventory of offender-based State corrections information systems and conduct a review of current information interchange capabilities among the States. (An offender-based system is defined for purposes of this solicitation as a computerized or manual information system that is conceptually arranged around a single record for each inmate or each person under correctional supervision. The term State, for this purpose, includes the Federal Bureau of Prisons.)

Specifically, the recipient of funds will perform the following tasks:

1. Develop a detailed timetable for each task involved in the project, with data collection taking place February through July 1997. After the BJS grant monitor has agreed to the timetable, all work must be completed as scheduled.

2. Convene an advisory meeting of corrections administrators, directors of research, and Directors and staff representatives of the National Institute of Corrections (NIC), the Federal Bureau of Prisons (BOP), NIJ, and BJS to identify core issues guiding the inventory. This meeting will include approximately 40 people, who will be identified by BJS, and shall take place in or nearby Washington, DC. All costs related to the transportation, lodging, and subsistence of meeting participants will be provided with separate funds. With assistance from BJS staff, the recipient shall be responsible for coordinating the meeting, including arranging the meeting date and place, contacting participants, and providing the agenda. Participants in the advisory meeting shall identify and prioritize the categories of data elements to be inventoried.

3. Develop a questionnaire and methodology for collecting information. Following the advisory meeting, the recipient will receive guidance from BJS as to specifications for developing the collection methodology. The inventory shall:

- Include a maximum of 200 data elements and definitions—using, as a baseline model, elements currently existing in the National Corrections Reporting Program (NCRP), other data items specified as possibly of interest to BJS, NIJ, and OJP in the future, core elements in the Offender Based State Corrections Information Systems (OBSCIS), and related data elements and definitions in established criminal justice data systems such as NCIC–2000, criminal history record standards, or the State Court Model Statistical Dictionary. The selection of 200 data elements will be made by the recipient based on the categories and priorities established by the project's advisory meeting.
- Determine the presence or absence of each item in every State's inmate information systems, and the definitions, categories and codes pertaining to each item.
- Determine, in general, other categories of data commonly included by States in their inmate information systems.
- Determine characteristics of master files and linkages to subordinate record systems.
- Outline file coverage, data entry process, and updating procedures; examine timeliness.
- Determine ability to extract records of admissions and releases from master file; reporting of correctional status to State agencies than maintain criminal fingerprints and criminal history records.

4. Submit a written report on the inventory in task #3, together with State file documentation.

5. Conduct site visits, focusing particularly on States not currently participating electronically in the National Corrections Reporting Program, and perform tasks related to:

- Identifying obstacles to participation and other reasons for non-participation
- Determining what assistance States would need in order to have the capacity to interchange electronic offender-based records in the future
- Facilitating the development of automated extraction programs that would meet agreed Federal standards—in collaboration with NCRP staff and the State's Corrections Department programming staff (or designates).

6. Provide a report on variations in reporting and coverage of data elements in data available to States and recommendations for a limited set of core data elements and categories to be included and defined in a common way in all State inmate information systems.

Award Procedures

Proposals should describe in appropriate detail the procedures to be undertaken in furtherance of each of the activities described under the Scope of Work. Information on staffing levels and qualifications should be included for each task and descriptions of experience relevant to the project should be included. Resumes of the proposed project director and key staff should be enclosed with the proposal.

Applications will be reviewed competitively by a BJS-selected panel comprised of members selected by BJS, NIJ, and CPO. The panel will make recommendations to the Director, BJS. Final authority to enter into a cooperative agreement is reserved for the Director, BJS, or his designee.

Applicants must reveal any association (within past two years) with the Association of State Corrections Administrators or any ownership, financial interests, or marketing agreements with respect to corrections information management systems. Depending on the nature and extent of involvement, such interests and relationships may disqualify applicants or be considered negatively in the consideration of the application.

Applicants must be familiar with the findings in the report of the ASCA Subcommittee on Research ''Cross-jurisdictional Survey of Correctional Research Offices.'' Vol. 1, September 1995. The application should include a summary of the key survey findings and outline how the inventory builds on these findings. A copy of the subcommittee report will be provided on request by BJS.

Applications will be evaluated on the overall extent to which they respond to the priorities and technical complexities of the scope of work, conform to standards of high data collection quality, and appear to be fiscally feasible and efficient. Applicants will be evaluated on the basis of:

1. Knowledge of criminal justice issues related to corrections.

2. Knowledge and experience related to the development and improvement of information systems.

3. Experience in organizing meetings of Federal, state, or local professionals related to criminal justice issues.

4. Research expertise and experience in data gathering, production of data files, and report writing.

5. Availability of qualified professional, field and support staff and suitable equipment for data gathering and processing.

6. Demonstrated fiscal, management and organizational capability and experience suitable for providing sound data within budget and time constraints.

7. Reasonableness of estimated costs for the total project and for individual cost categories.

Application and Awards Process

An original and five (5) copies of a full proposal must be submitted with SF 424 (Rev. 1988), Application for Federal Assistance, as the cover sheet. Proposals must be accompanied by SF 424A, Budget Information; OJP Form 4000/3 (Rev. 1–93), Program Narrative and Assurances; OJP Form 4061/6, Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements; and OJP Form 7120–1 (Rev. 1–93), Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal funds from the Office of Justice Programs). If appropriate, applicants must complete and submit Standard Form LLL, Disclosure of Lobbying Activities. All applicants must sign Certified Assurances that they are in compliance with the Federal laws and regulations which prohibit discrimination in any program or activity that receives Federal funds. To obtain appropriate forms, contact Getha Hilario, BJS Management Assistant, at (202) 633–3031.

The application should cover a 1-year period with information provided for completion of the entire project. Proposals must include a program narrative, detailed budget, and budget narrative. The program narrative shall describe activities as stated in the scope of work and address the evaluation criteria. The detailed budget must provide costs including salaries of staff involved in the project and portion of those salaries to be paid from the award; fringe benefits paid to each staff person; travel costs; and supplies required to complete the project. The budget narrative closely follows the content of the detailed budget. The narrative should relate the items budgeted to the project activities and should provide a justification and explanation for the budgeted items. Refer to the aforementioned timetable when developing the program narrative and budget information. This award will not be used to procure equipment for the conduct of this study.

Awards will be made for a period of 6 months with supplemental funding for an additional 6 months conditional upon the quality of initial performance and products.

Jan M. Chaiken,

Director, Bureau of Justice Statistics.

[FR Doc. 96–25806 Filed 10–07–96; 8:45 am]

BILLING CODE 4410–18–P

National Institute of Corrections

Advisory Board Meeting

Time and Date: 8:00 a.m., Tuesday, October 22, 1996.

Place: Raintree Plaza Hotel, 1900 Ken Pratt Boulevard, Longmont, Colorado.

Status: Open.

Matters To Be Considered: Update on the reimbursement plan for NIC services, Office of Justice Programs' update on the Violent Offender and Truth In Sentencing Grant Program, update on the District of Columbia Department of Corrections Study, progress report from the task force on prison construction standardization and techniques, update on the NIC Executive Excellence Program, an update on the NIC Budget, and a report on the NIC Hearings.

Contact Person for More Information: Larry Solomon, Deputy Director, (202) 307–3106, ext. 155.

Morris L. Thigpen,

Director.

[FR Doc. 96–25710 Filed 10–7–96; 8:45 am]

BILLING CODE 4410–36–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATES: The Board of Directors of the Legal Services Corporation will meet by telephone on October 15, 1996. The meeting will begin at 10:00 a.m. Eastern Daylight Time.

LOCATION: Members of the Corporation's staff and the public will be able to hear and participate in the meeting by means of telephonic conferencing equipment set up for this purpose in the Corporation's Conference Room, on the 10th floor of 750 First Street NE., Washington, DC 20002.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Consider and act on whether the LSC Board of Directors has oversight responsibility for the adoption of revisions to LSC's Audit Guide.
3. Consider and act on revisions to LSC's Audit Guide.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, at (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting should contact Barbara Asante at (202) 336–8800.

Dated: October 3, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–25918 Filed 10–4–96; 11:21 am]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Fellowships for Creative Writers Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Fellowships Advisory Panel (Creative Writers Section) to the National Council on the Arts will be held on October 28–30, 1996. This meeting will be held from 9:00 a.m. to 6:30 p.m. on October 28 and 29 and from 9:00 a.m. to 5:00 p.m. on October 30, in Room M–07, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 3:30 p.m. to 5:00 p.m. on October 30, for a policy discussion.

The remaining portions of this meeting, from 9:00 a.m. to 6:00 p.m. on October 28 and 29, and from 9:00 a.m. to 3:30 p.m. on October 30, are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee

Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: October 2, 1996.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 96–25804 Filed 10–7–96; 8:45 am]

BILLING CODE 7537–01–M

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506.

FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsection (c)(4), and (6) of section 552b of Title 5, United States Code.

1. Date: October 18, 1996.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review application for the National Heritage Preservation Program projects submitted to the Division of Preservation and Access, for projects at the July 1, 1996 deadline.

2. Date: October 23, 1996.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for the National Heritage Preservation Program projects submitted to the Division of Preservation and Access, for projects at the July 1, 1996 deadline.

3. Date: October 25, 1996.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for the National Heritage Preservation Reference Materials—The Americas I projects submitted to the Division of Preservation and Access, for projects at the July 1, 1996 deadline.

4. Date: October 29, 1996.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for the National Heritage Preservation Reference Materials—The Americas II projects submitted to the Division of Preservation and Access, for projects at the July 1, 1996 deadline.

Michael S. Shapiro,

Acting, Advisory Committee Management Officer.

[FR Doc. 96–25676 Filed 10–7–96; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Wednesday, October 16, 1996.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6744 Recommendations to FAA: Boeing 737 Directional Control System Improvements and Unusual Attitude Recovery Training.

6626C Highway/Railroad Accident Report: Collision of Northeast Illinois Regional Commuter Railroad Corporation Train and Transportation Joint Agreement School District 47/155 School Bus at Railroad/Highway Grade Crossing in Fox River Grove, Illinois, October 25, 1995.

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: October 4, 1996.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 96–25914 Filed 10–4–96; 11:14 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension/Revision.

2. The title of the information collection: NRC Form 396, Certification of Medical Examination by Facility Licensee.

3. The form number if applicable: NRC Form 396.

4. How often the collection is required: Upon application for an initial operator license, every six years for the renewal of operator or senior operator licenses, and upon notices of disability.

5. Who will be required or asked to report: Facility employers of applicants for operator licenses.

6. An estimate of the number of responses: 975.

7. The estimated number of annual respondents: 975.

8. An estimate of the total number of hours needed annually to complete the requirement or request: Reporting: 243.75 hours (.25 hours per response), Recordkeeping: 497.5 (.10 hour per record).

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: NRC Form 396 establishes the procedure for transmitting information to the NRC regarding the medical condition of applicants for initial or renewal operator licenses and for the maintenance of medical records for all licensed operators. The information is used to

determine whether the physical condition and general health of applicants for operator licenses is such that the applicant would not be expected to cause operational errors endangering public health and safety.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by November 7, 1996: Edward Michlovich, Office of Information and Regulatory Affairs (3150–0024), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 30th day of September 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–25741 Filed 10–7–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 030–10859, 030–06198, License Nos. 37–14600–01, 37–09135–01, EA 96–353]

Applied Health Physics, Inc., Bethel Park, Pennsylvania; Confirmatory Order (Effective Immediately)

I

Applied Health Physics, Inc. (Licensee or AHP) is the holder of NRC License Nos. 37–14600–01 and 37–09135–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The Licensee's facility is located on the Licensee's site in Bethel Park, Pennsylvania. License No. 37–14600–01 currently authorizes the receipt, possession, and storage of pre-packaged wastes. License No. 37–09135–01 currently authorizes leak tests services, analysis of samples, calibrations of instruments, and fixed gauge services. License No. 37–14600–01 initially was issued on September 4, 1975, and is due to expire on January 30, 1997. License No. 37–09135–01 was initially issued on February 19, 1963, and is due to expire on October 31, 2000.

II

AHP was issued a Confirmatory Order on March 29, 1996, (the Order) as a result of its storage of radioactive waste for more than 180 days, which is a repeat violation, possessing radioactive material which AHP was not authorized to possess, and NRC's concern about the financial status of the licensee and the possibility of abandoned radioactive material at the licensee's facility.

In letters dated May 2 and 16, 1996, AHP stated that it had complied with the Order and requested a relaxation of the Order which would authorize AHP to receive pre-packaged radioactive wastes at their Bethel Park facility. In particular, these letters described AHP's actions which included the disposal of certain specified waste and the establishment of an escrow account into which would be deposited revenues from customers whose waste is transferred to its Bethel Park, Pennsylvania facility. These revenues would be deposited into escrow within five business days and would include the revenues required to pay for the direct costs of transportation, permits, disposal, and a 10% contingency fee.

The NRC reviewed the AHP request and, based on the information provided in its letters cited above, the NRC found that AHP had satisfactorily complied with the requirements of the Order to be met to date and had made satisfactory progress toward completion of the remaining requirement, Paragraph IV.C of the Order, which is to be completed by December 31, 1996. In accordance with Section IV of the Order, Paragraph IV.A. of the Order was rescinded by letter dated May 31, 1996, so as to authorize AHP to receive prepackaged radioactive waste at its Bethel Park, Pennsylvania facility. The other requirements of the Order remained in effect.

Since that time, the NRC learned that the United States Internal Revenue Service seized AHP's bank accounts, thereby preventing disposal of radioactive waste located at AHP's Bethel Park, Pennsylvania facility. As a result, the NRC no longer has confidence that AHP will be able to dispose of the radioactive waste on-site. Accordingly, in AHP's facsimile dated September 3, 1996, AHP agreed to suspend all receipt of pre-packaged radioactive waste at your Bethel Park, Pennsylvania facility.

III

I find that the Licensee's commitments as set forth in its facsimile of September 3, 1996 are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments in its September 3, 1996 facsimile be confirmed by this Order. The Licensee has agreed to this action in a telephone call on September 12, 1996, between Francis M. Costello, Chief, Industrial Applications Branch, Division of Nuclear Materials Safety, U.S. NRC, Region I, and Daniel Haber, Assistant to the President, Applied Health Physics. In addition, during a telephone call on September 20, 1996, between Ms. Kathleen Dolce, Health Physicist, NRC Region I, and Mr. Robert Gallaghar, President of AHP, the Licensee understood that, by consenting to issuance of this Order, it waived its rights to a hearing. Pursuant to 10 CFR 2.202, I also have determined, based on the Licensee's consent and on the significance of the underlying violation described above, that the public health and safety require this Order to be immediately effective.

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, *It Is Hereby Ordered, Effective Immediately, that:*

A. Authorization for the receipt of pre-packaged radioactive waste at the Bethel Park facility is suspended.

The Regional Administrator, Region I, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. Any

request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), any person other than the Licensee adversely affected by this Order may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 27th day of September 1996.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 96–25740 Filed 10–7–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 87th meeting on October 22 and 23, 1996, Room T–2B3, at 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the Federal Register on Wednesday, December 6, 1995 (60 FR 62485).

The entire meeting will be open to public attendance. The agenda for this meeting shall be as follows: *Tuesday, October 22, 1996—8:30 a.m. until 6:00 p.m. Wednesday, October 23, 1996—8:30 a.m. until 4:00 p.m.* During this meeting, the Committee plans to consider the following:

A. *Decommissioning For Disposals of Radioactive Waste By Land Burial Authorized Under the Former 10 CFR 20.304, 10 CFR 20.302, and Current 10 CFR 20.2002*—The Committee will review a draft Branch Technical Position that will provide criteria for screening on-site burials disposed of in accordance with former 10 CFR 20.304 and 10 CFR 20.302 requirements to determine if further remediation is required.

B. *Direction Setting Issue Papers*—The Committee will be briefed by the NRC staff on the Direction Setting Issue papers (produced as part of the Agency's strategic assessment of regulatory activities) and will provide comments on issues where the ACNW believes their review will enhance the strategic assessment process.

C. *Ethics Training*—The Committee will receive its annual ethics training from a representative of the Agency's Office of the General Counsel.

D. *Preparation of ACNW Reports*—The Committee will discuss proposed reports, including: radionuclide transport at Yucca Mountain, specification of a critical group and reference biosphere to be used in the performance assessment for a nuclear waste disposal facility, consideration of coupled processes (thermal-mechanical-hydrological-chemical) in the design of a high-level waste repository, time of compliance in high- and low-level waste disposal, comments on selected Agency Decision Setting Issues papers, and shallow land burials licensed under the former 10 CFR 20.304 and 20.302 requirements.

E. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

F. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on September 27, 1995 (60 FR 49924). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8:00 a.m. and 5:00 p.m. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the ''NRC MAIN MENU.'' Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

Dated: October 2, 1996.

John C. Hoyle,

Acting Advisory Committee Management Officer.

[FR Doc. 96–25736 Filed 10–7–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Nuclear Waste; Procedures for Meetings

Background

This notice describes procedures to be followed with respect to meetings conducted pursuant to the Federal

Advisory Committee Act by the Nuclear Regulatory Commission's (NRC's) Advisory Committee on Nuclear Waste (ACNW). These procedures are set forth so that they may be incorporated by reference in future notices for individual meetings.

The ACNW advises the Nuclear Regulatory Commission on nuclear waste disposal issues. This includes facilities covered under 10 CFR Parts 60 and 61 and other applicable regulations and legislative mandates, such as the Nuclear Waste Policy Act, the Low-Level Radioactive Waste Policy Act and amendments, and the Uranium Mill Tailings Radiation Control Act, as amended. The Committee's reports become a part of the public record. The ACNW meetings are normally open to the public and provide opportunities for oral or written statements from members of the public to be considered as part of the Committee's information gathering process. The meetings are not adjudicatory hearings such as those conducted by the NRC's Atomic Safety and Licensing Board Panel as part of the Commission's licensing process. ACNW full Committee meetings are conducted in accordance with the Federal Advisory Committee Act.

General Rules Regarding ACNW Meetings

An agenda is published in the Federal Register for each full Committee meeting. There may be a need to make changes to the agenda to facilitate the conduct of the meeting. The Chairman of the Committee is empowered to conduct the meeting in a manner that, in his/her judgment, will facilitate the orderly conduct of business, including making provisions to continue the discussion of matters not completed on the scheduled day on another meeting day. Persons planning to attend the meeting may contact the Chief of the Nuclear Waste Branch, ACNW, prior to the meeting to be advised of any changes to the agenda that may have occurred. This individual can be contacted (telephone: 301/415–7366) between 7:30 a.m. and 4:15 p.m., Eastern Time.

The following requirements shall apply to public participation in ACNW meetings:

(a) Persons wishing to submit written comments regarding the agenda items may do so by sending a readily reproducible copy addressed to the Designated Federal Official specified in the Federal Register Notice for the individual meeting in care of the Advisory Committee on Nuclear Waste, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments should be in the possession of the Designated Federal Official at least five days prior to a meeting to allow time for reproduction and distribution. Comments should be limited to areas related to nuclear waste issues within the Committee's purview.

Written comments may also be submitted by providing a readily reproducible copy to the Designated Federal Official at the beginning of the meeting.

(b) Persons desiring to make oral statements at the meeting should make a request to do so to the Designated Federal Official. If possible, the request should be made five days before the meeting identifying the topics to be discussed and the amount of time needed for presentation, so that orderly arrangements can be made. The Committee will hear oral statements on topics being reviewed at an appropriate time during the meeting as scheduled by the Chairman.

(c) Information regarding topics to be discussed, changes to the agenda, whether the meeting has been cancelled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the Chief of the Nuclear Waste Branch, ACNW, (telephone: 301/415–7366) between 7:30 a.m. and 4:15 p.m., Eastern Time.

(d) During the ACNW meeting presentations and discussions, questions may be asked by ACNW members, Committee consultants, NRC staff, and the ACNW staff.

(e) The use of still, motion picture, and television cameras will be permitted at the discretion of the Chairman and subject to the condition that the physical installation and presence of such equipment will not interfere with the conduct of the meeting. The Designated Federal Official will have to be notified prior to the meeting and will authorize the installation or use of such equipment after consultation with the Chairman. The use of such equipment will be restricted as is necessary to protect proprietary or privileged information that may be in documents, folders, etc., in the meeting room. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

(f) A transcript is kept for certain open portions of the meeting and will be available in the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555, for use within one week following the meeting. A copy of the certified minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained upon payment of appropriate reproduction charges. Transcripts of the meeting are available in electronic format from the NRC electronic bulletin board on FedWorld (800–303–9672) or ftp.fedworld. They are also available for downloading or reviewing on the Internet at http://www.nrc.gov/ACRSACNW.

ACNW Working Group Meetings

ACNW Working Group meetings will also be conducted in accordance with these procedures, as appropriate. When Working Group meetings are held at locations other than at NRC facilities, reproduction facilities may not be available at a reasonable cost. Accordingly, 25 additional copies of the materials to be used during the meeting should be provided for distribution at such meetings.

Special Provisions When Proprietary Sessions are to be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of the ACNW meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The Designated Federal Official should be informed of such an agreement at least five working days prior to the meeting so that it can be confirmed, and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Official prior to the beginning of the meeting for admittance to the closed session.

Dated: October 2, 1996.

John C. Hoyle,

Acting Advisory Committee Management Officer.

[FR Doc. 96–25737 Filed 10–07–96; 8:45 am]

BILLING CODE 7590–9–P

Sunshine Act Meeting

DATE: Weeks of October 7, 14, 21, and 28, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 7

Monday, October 7

2:00 p.m.
Briefing on Site Decommissioning Management Plan (SDMP) (Public Meeting)
(Contact: Mike Webber, 301–415–7297)

Wednesday, October 9

11:30 a.m.
Affirmation Session (Public Meeting)
a. Final Rulemaking—Revision to 10 CFR Part 20. Constraint for Airborne Radioactive Effluents to the Environment from NRC Licensees Other than Power Reactors and Agreement State Licensees; and Revision of the General Statement of Policy and Procedures for NRC Enforcement Actions (tentative)
(Contact: Andrew Bates, 301–415–1963)

Week of October 14—Tentative

Tuesday, October 15

1:00 p.m.
Briefing by Executive Branch (Closed—Ex. 1)

Wednesday, October 16

9:00 a.m.
Briefing on Containment Degradation (Public Meeting)
(Contact: Gary Holahan, 301–415–2884)
2:00 p.m.
Briefing PRA Implementation Plan (Public Meeting)
(Contact: Gary Holahan, 301–415–2884)
3:30 p.m.
Affirmation Session (Public Meeting) (if needed)

Friday, October 18

9:00 a.m.
Briefing on Integrated Safety Assessment Team Inspection (ISAT) at Maine Yankee (Public Meeting)
(Contact: Ed Jordan, 301–415–7472)

Week of October 21—Tentative

There are no meetings scheduled for the week of October 21.

Week of October 28—Tentative

Thursday, October 31

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

Additional Information: By a vote of 5–0 on October 2, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that ''Affirmation of Yankee Atomic Electric Company (Yankee Nuclear Power Station), Docket No. 50–029–DCOM, Memorandum and Order (Granting Motion for Summary Disposition), LBP–96–18'' be held on October 2, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmhnrc.gov or dkwnrc.gov.

* * * * *

Dated: October 3, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–25904 Filed 10–4–96; 11:16 am]

BILLING CODE 7590–01–M

PRESIDENTIAL ADVISORY COMMITTEE ON GULF WAR VETERANS' ILLNESSES

Meeting

AGENCY: Presidential Advisory Committee on Gulf War Veterans' Illnesses.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act, this notice is hereby given to announce an open meeting of the Presidential Advisory Committee on Gulf War Veterans' Illnesses.

DATES: November 13, 1996, 9:00 a.m.–5:00 p.m.

PLACE: ANA Hotel, 2401 M. Street NW., Washington, DC 20037.

SUPPLEMENTARY INFORMATION: The President established the Presidential Advisory Committee on Gulf War Veterans' Illnesses by Executive Order 12961, May 26, 1995. The purpose of this committee is to review and provide recommendations on the full range of government activities associated with Gulf War veterans' illnesses. The committee reports to the President through the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs. The committee members have expertise relevant to the functions of the committee and are appointed by the President from non-Federal sectors.

Tentative Agenda

Wednesday, November 13, 1996

8:55 a.m. Call to order and opening remarks
9:00 a.m. Public comment
9:50 a.m. Discussion of final report
11:00 a.m. Break
11:15 a.m. Discussion of final report
12:30 p.m. Lunch
1:30 p.m. Discussion of final report
3:15 p.m. Break
3:30 p.m. Discussion of final report
4:45 p.m. Committee and staff discussion: Next steps
5:00 p.m. Meeting adjourned

A final agenda will be available at the meeting.

Public Participation

The meeting is open to the public. Members of the public who wish to make oral statements should contact the Advisory Committee at the address or telephone number listed below at least five business days prior to the meeting. Reasonable provisions will be made to include on the agenda presentations from individuals who have not yet had an opportunity to address the Advisory Committee. Priority will be given to Gulf War veterans and their families. The Advisory Committee Chair is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. People who wish to file written statements with the Advisory Committee may do so at any time.

FOR FURTHER INFORMATION CONTACT: John D. Longbrake, Presidential Advisory Committee on Gulf War Veterans' Illnesses, 1411 K Street NW., suite 1000, Washington, DC 20005, Telephone: (202) 761–0-0066, Fax: (202) 761–0310.

Dated: October 2, 1996.

C.A. Bock,

Federal Register Liaison Officer, Presidential Advisory Committee on Gulf War Veterans' Illnesses.

[FR Doc. 96–25773 Filed 10–7–96; 8:45 am]

BILLING CODE 3610–76–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22258; 812–9474]

Benham Manager Funds, et al.; Notice of Application

October 1, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Benham Manager Funds on behalf of Benham Capital Manager Fund (''Capital Manager Fund''), Benham International Funds on behalf of Benham European Government Bond Fund (''European Bond Fund''); and Benham Management Corporation (''BMC'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) granting an exemption from section 12(d)(1), and under sections 6(c) and 17(b) granting an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order that would permit the Capital Manager Fund to purchase shares of particular funds advised by BMC in excess of the percentage limitations of section 12(d)(1).

FILING DATES: The application was filed on February 10, 1995, and was amended on March 8, 1996, and on August 9, 1996. Applicants agree to file an amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 28, 1996 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: 1665 Charleston Road, Mountain View, California 94043.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Capital Manager Fund is currently the sole series of the Benham Manager Funds, a registered open-end management investment company. The Capital Manager Fund allocates its assets among U.S. equity securities, U.S. fixed-income securities, money market instruments, foreign equity and fixed-income securities, and securities of companies with substantial gold related assets and other investments related to natural resources.

2. The European Bond Fund is a series of the Benham International Funds, a registered open-end management investment company. The European Bond Fund invests primarily in bonds issued or guaranteed by European governments and their political subdivisions. Under normal market conditions, the European Bond Fund invests at least 65% of its total assets in European government bonds.

3. BMC serves an investment adviser to the Funds. J.P. Morgan Investment Management Inc. serves an subadviser to the European Bond Fund. BMC is registered under the Investment Advisers Act of 1940, and is a wholly-owned subsidiary of Twentieth Century Companies, Inc. Applicants request relief to permit the Capital Manager Fund to purchase shares of the European Bond Fund or any other registered investment companies or series thereof advised by BMC, or any entity controlling, controlled by, or under common control with BMC that may invest internationally (collectively, the ''International Funds'').[1]

4. Applicants believe that in order for the Capital Manager Fund to gain international investment exposure in furtherance of its investment objective, it would be advantageous to the Capital Manager Fund and its shareholders to invest in the International Funds. Although there will be no numerical limits on the percentage of any of the International Funds that the Capital Manager Fund may acquire, applicants expect that the Capital Manager Fund ordinarily would not hold shares of any International Fund representing in the aggregate more than 20% of the outstanding voting securities of such International Fund.

5. BMC and the board of Benham Manager Funds will determine annually whether investment in the International Funds continues to be in the best interests of the shareholders of the Capital Manager Fund. If BMC or the Benham Manager Funds' board believes that the investment would no longer be advantageous, the Capital Manager Fund would redeem its shares of the International Funds and invest directly in the international securities markets. Such redemptions would be effected in cash or in-kind. In-kind redemptions would comply with the provisions of rule 17a–7 (a) through (f) under the Act, except for the requirement under subparagraph (a) that the transaction be for no consideration other than cash payment. In addition, in the case of an in-kind redemption, the Capital Manager Fund would receive its *pro rata* share of each portfolio security of the International Fund. Applicants state that in-kind redemptions would be effected in order to prevent the International Funds from having to sell portfolio securities at disadvantageous prices, and to prevent the Funds from incurring unnecessary brokerage and other transactional costs on sales and purchases of portfolio securities that the Capital Manager Fund intends to hold in its portfolio.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under section 6(c) exempting them from section 12(d)(1) to permit the Capital Manager Fund to acquire shares of the International Funds in excess of the percentage limitations of section 12(d)(1).

3. Applicants believe the restrictions in section 12(d)(1) were intended to prevent unregulated pyramiding of investment companies, and the negative

[1] Applicants previously received an exemption from section 17(a) of the Act and an order pursuant to section 17(d) of the Act and rule 17d–1 thereunder to permit investment companies created, managed, and distributed by BMC to invest in affiliated money market funds within the limits of section 12(d)(1). See Investment Company Act Release Nos. 16981 (June 5, 1989) (notice) and 17041 (June 30, 1989) (order).

effects which are perceived to arise from such pyramiding. For the following reasons, applicants believe that the limited investment of the Capital Manager Fund in the International Funds does not entail the type of abusive fund of funds arrangement that Congress adopted and amended section 12(d) to prevent.

4. The proposed arrangement will contain no improper layering of fees. The proposed arrangement will not involve the layering of advisory fees since, before approving any advisory contract under section 15(a) of the Act, the board of trustees of Benham Manager Funds, including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, will find that the advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any International Fund advisory contract.

5. Applicants also state that neither the Capital Manager Fund nor any International Fund currently intend to impose a sales load or a 12b–1 fee. Certain International Funds may impose a redemption price adjustment on shares redeemed within 180 days of purchase. Any sales charges or service fees relating to the shares of the Capital Manager Fund will not exceed the limits set forth in Rule 2830 of the NASD's Conduct Rules when aggregated with any sales charges or service fees that the Capital Manager Fund pays relating to the International Fund shares.

6. Applicants represent that, if the Capital Manager Fund were to invest directly in international securities markets, it would have to pay a minimum fee to a subcustodian in each country where it invests and, spread over a small amount of assets, these fees could be prohibitive. Applicants believe that permitting the Capital Manager Fund to invest in the International Funds would lead to a lesser number of minimum fees and result in lower custodial fees for all of the Funds, because the fees would be spread out over a larger amount of assets. In addition, applicants argue that investing through the International Funds, rather than investing small amounts of assets directly in the international markets, will result in lower brokerage fees for the Capital Manager Fund, because brokerage fees are typically reduced for larger orders.

7. Applicants note that another concern behind section 12(d)(1) is the pressure on the management of underlying funds from a large redemption accompanied by a loss of advisory fees. Applicants argue that this concern does not apply in the case of the Capital Manager Fund and International Funds. Because BMC is investment adviser to the International Funds and the Capital Manager Fund, it will earn its advisory fee whether the Capital Manager Fund's assets are invested in the International Funds or in the international securities markets directly. Applicants argue that, if the Capital Manager Fund invests in the International Funds, BMC currently intends to waive its advisory fee at the Capital Manager Fund level to the extent attributable to the net assets of the International Funds held by the Capital Manager Fund, but would receive an advisory fee based on the assets of the International Funds. Applicants note that, if the Capital Manager Fund invests directly in the international securities markets, it will receive its advisory fee at the Capital Manager Fund level. Thus, applicants believe the loss of advisory fees at one level is offset by the advisory fees received at the other level.

8. Applicants also believe that the proposed arrangement will not result in disruptive redemptions. Because the Capital Manager Fund and the International Funds will all have BMC as their investment adviser, applicants believe that BMC will be in a position to anticipate redemption needs. In times of market stress or extreme volatility, applicants argue that BMC would be mindful of the impact of selling securities to meet Capital Manager Fund redemptions. In addition, the Capital Manager Fund may limit, with certain exceptions, its redemptions from any International Fund in excess of 3% of that International Fund's shares in any period of less than 30 days.

9. Section 17(a) makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities from, the company. The Capital Manager Fund and the International Funds may be considered affiliated persons because they share a common adviser. Thus, purchases or sales of securities between the Capital Manager Fund and an International Fund may be prohibited by section 17(a).

10. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company concerned; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit the Capital Manager Fund to purchase shares of an International Fund, and an International Fund to redeem such shares.[2] Applicants believe that the proposed transactions, including the in-kind redemptions discussed above, meet the standards of sections 6(c) and 17(b). Applicants state that the consideration paid and received for the sale and redemption of shares of the International Funds will be based on the net asset value of the International Funds and therefore is reasonable and does not involve overreaching.

Applicants' Conditions

If the requested order is granted, applicants agree to the following conditions:

1. The Capital Manager Fund and each International Fund will be part of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act.

2. No International Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of the Benham Manager Funds will be independent, *i.e.*, not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent trustees'').

4. Before approving any advisory contract under section 15 of the Act for the Capital Manager Fund, the board of trustees of Benham Manager Funds, including a majority of the Independent Trustees, shall find that advisory fees, if any, charged under such contract are based on services that are in addition to, rather than duplicative of, services provided pursuant to any International Fund's advisory contract. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Capital Manager Fund.

5. Any sales charges or service fees charged with respect to securities of the Capital Manager Fund, when aggregated with any sales charges or service fees paid by the Capital Manager Fund with respect to securities of the International Funds, shall not exceed the limits set forth in Rule 2830 of the Conduct Rules of the NASD.

6. The applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of

[2] Section 17(b) applies to specific proposed transactions, rather than an ongoing series of future transactions. *See* Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c) frequently is used to grant relief from section 17(a) to permit an ongoing series of future transactions.

the SEC's Division of Investment Management: Monthly average total assets for the Capital Manager Fund and each of the International Funds in which it invests; monthly purchases and redemptions (other than by exchange) for the Capital Manager Fund and each of the International Funds in which it invests; monthly exchanges into and out of the Capital Manager Fund and each of the International Funds in which it invests; month-end allocations of the Capital Manager Fund's assets among the International Funds in which it invests; annual expense ratios for the Capital Manager Fund and each of the International Funds in which it invests; and a description of any vote taken by the shareholders of any International Fund, including a statement of the percentage of votes cast for and against the proposal by the Capital Manager Fund and by the other shareholders of the International Funds. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Capital Manager Fund (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–25684 Filed 10–7–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37771; File No. SR–MSRB–96–9]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to an Extension of the Continuing Disclosure Information (''CDI'') System From September 30, 1996, Through December 31, 1996

October 1, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, notice is hereby given that on August 21, 1996, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change (File No. SR–MSRB–96–9). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Board has designated this proposal as concerned solely with the administration of the Board under Section 19(b)(3)(A) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing a proposed rule change to request an extension, from September 30, 1996, through December 31, 1996, of its interim Continuing Disclosure Information (''CDI'') system of the Municipal Securities Information Library® (MSIL®) system.[1] The Board requests that the Commission set the effective date for 30 days after filing.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On April 6, 1992, the Commission approved the CDI system for an 18-month period.[2] The CDI system began operating on January 23, 1993, and functions as part of the Board's MSIL® system. The CDI system accepts and disseminates voluntary submissions of official disclosure notices relating to outstanding issues of municipal securities, *i.e.*, continuing disclosure information. During its first phase of operation, the system accepted disclosure notices only from trustees. On May 17, 1993, the system also began accepting disclosure notices from issuers.[3]

On November 10, 1994, the Commission approved an amendment to its Rule 15c2–12 which prohibits dealers from underwriting issues of municipal securities unless the issuer commits, among other things, to provide material events notices to the Board's CDI system or to all Nationally Recognized Municipal Securities Information Repositories (''NRMSIRs'') and to the applicable state information depository.[4] In addition, the Rule prohibits dealers from recommending municipal securities without having a system in place to receive material events notices. To conform to the new Commission requirements, the Board revised the CDI system and implemented an interim system designed to accept material event notices while a larger permanent system is being designed.[5] The interim system increased the capacity of the system to process 200 documents per day and increased the page limit per document from three to 10. The Commission has approved operation of the interim system through September 30, 1996.[6]

The Board is requesting an extension for the interim system to operate through December 31, 1996, to allow sufficient time for completion and testing of the permanent system. After consulting with users of the system, including NRMSIRs, the Board is in the final stages of developing the permanent CDI system and has begun testing the system design. The Board believes that an extension of the operation of the interim CDI system through December 31, 1996, will give it sufficient time to complete the system implementation. Prior to that time, and after system tests are complete, the Board will file a plan with the Commission for the permanent CDI system.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSIL® system is designed to increase the integrity and efficiency of

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[1] The Municipal Securities Information Library and MSIL are registered trademarks of the Board. The MSIL® system, which was approved in Securities Exchange Act Release No. 29298 (June 13, 1991), is a central facility through which information about municipal securities is collected, stored and disseminated.

[2] Sec. Exch. Act Rel. No. 30556 (April 6, 1992).

[3] On May 17, 1993, the Board reported to the Commission on the initial phase of operation of the CDI system regarding technical, policy and cost issues and proposed enhancements to the system.

[4] Sec. Exch. Act Rel. No. 34961 (Nov. 10, 1994).

[5] The Board also terminated the pilot phase of the CDI System and filed its Report on the Conclusion of the CDI Pilot of the Municipal Securities Information Library® System with the Commission on August 25, 1995.

[6] Sec. Exch. Act Rel. No. 35911 (June 28, 1995); Sec. Exch. Act Rel. No. 36610 (Dec. 20, 1995).

the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available official information about that issue. The Board will continue to operate the output side of the CDI system to ensure that the information is available to any party who wishes to subscribe to the service. As with all MSIL® system services, this service is available, on equal terms, to any party requesting the service.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the Commission for its review at least five days prior to the filing date; and (iv) does not become operative for thirty days from the date of its filing on August 21, 1996, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposed rule change qualifies as a ''non-controversial filing'' in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the board's principal offices. All submissions should refer to File No. SR–MSRB–96–9 and should be submitted by October 29, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–25761 Filed 10–7–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37770; File No. SR–PSE–96–28]

Self-Regulatory Organizations; Pacific Stock Exchange Incorporated; Order Granting Approval to Proposed Rule Change Relating to Its Rule on the Evaluation of Its Equity Specialists

October 1, 1996.

I. Introduction

On August 18, 1996, the Pacific Stock Exchange, Incorporated (''PSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise its equity specialist evaluation performance measures on a nine-month pilot basis.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37590 (August 21, 1996), 61 FR 44376 (August 28, 1996). No comments were received on the proposal.

II. Description

The Exchange is proposing to adopt a pilot program amending its rule relating to specialists evaluations for a nine month period from October 1, 1996 to July 1, 1997. Currently, PSE Rule 5.37(a) provides that the Equity Allocation Committee (''EAC'') shall evaluate all registered specialists on a quarterly basis and that each registered specialist shall receive an overall evaluation rating based on the following three measures of performance: (1) Specialist Evaluation Questionnaire Survey (''Questionnaire''); (2) SCOREX Limit Order Acceptance Performance; and (3) National Market System Quote Performance.

The Exchange is proposing to modify PSE Rule 5.37(a) by adding three new measures of performance and eliminating one measure of performance. The new measures are: (1) Executions, (2) Book Display Time; and (3) Post 1–P.M. Parameters. The Exchange is also proposing to: add more questions to the Questionnaire and to expand the Quote Performance measure (formerly the National Market System Quote Performance measure) [3] to include a performance measure for bettering the quote. In addition, the Exchange is proposing to eliminate SCOREX Limit Order Acceptance Performance as a measure of specialist performance. The Exchange's new rule for the evaluation of specialists will therefore consist of five separate measures of performance, as specified below:

a. Executions

This category on which 50% of each specialist evaluation is based, consists of four subcategories: (a) Turnaround Time; (b) Holding Orders Without Action; (c) Trading Between the Quote; and (d) Executions in Size Greater Than BBO.

Turnaround Time calculates the average number of seconds for all eligible orders up to 1,099 shares based upon the number of seconds between the receipt of a market or marketable limit order in P/COAST and the execution, partial execution, stopping, or cancellation of the order. An order that is moved from the autoex screen to the manual screen will accumulate time until it is executed, partially executed, stopped, or canceled. This measurement begins after the stock opens for the day on the primary market. Only those orders received by P/COAST after the stock opens will be counted. If there is a trading halt or period when the P/COAST system is experiencing problems, Turnaround Time will not be included for those blocks of time. A specialist will be awarded points based on the average number of seconds between the receipt of eligible market or marketable limit orders and any of the actions specified above being taken

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See *infra* text accompanying note 6.

upon such orders. This category will count for 15% of the overall score. The parameter ranges and corresponding points for Turnaround Time are listed below:

Number of seconds parameter range	Points
1– 8	10
9–10	9
11–12	8
13–14	7
15–16	6
17–18	5
19–20	4
21–22	3
23–24	2
25–26	1
27+	0

Holding Orders Without Action measures the number of market and marketable limit orders up to 10,099 shares that are held without action for greater than 25 seconds. As in the Turnaround Time calculation, the order will accumulate time until it is cancelled, stopped, executed, or partially executed. This measurement begins after the stock opens for the day on the primary market. Only those orders received by P/COAST after the stock opens will be counted. If there is a trading halt or period when the P/COAST system is experiencing problems, those blocks of time will be excluded from the Holding Orders Without Action calculation. The specialist will be awarded points based on the percentage of orders that are held under the established time period.[4] This category will count for 15% of the overall score. The parameter ranges and corresponding points for Holding Orders Without Action are listed below:

Number of seconds parameter range	Points
1– 3	10
4– 6	9
7– 9	8
10–12	7
13–15	6
16–18	5
19–21	4
22–24	3
25–27	2
28–30	1
31+	0

Trading Between the Quote measures the number of market and marketable limit orders that are executed between the best primary market bid and offer. For this criterion to count toward the overall evaluation score, ten orders or more must have been executed during the quarter the specialist is being evaluated. If less than ten orders are executed, this criterion will not be counted and the rest of the evaluation criteria will be given more weight.

When a market or marketable limit order is executed, the execution price is compared to the primary bid and offer. The specialist will be awarded points based on the percentage of orders the specialist receives that are executed between the primary bid and offer. If the execution price falls between the primary bid and the primary offer, the trade is counted as one that traded between the quote at the time of execution. Each time a trade is executed, the primary market quote will be noted. If the spread of that quote is two or more trading fractions apart, that trade will count as one eligible for the comparison of the execution price to the quote. If there is a trading halt or period when the P/COAST system is experiencing problems, those blocks of time will not be included in the Trading Between the Quote calculation.

This category will count for 10% of the overall score. The parameter ranges and corresponding points for Trading Between the Quote are listed below:

Percent of orders parameter range	Points
51+	10
46–50	9
41–45	8
36–40	7
31–35	6
26–30	5
21–25	4
16–20	3
11–15	2
5–10	1
0– 4	0

Executions in Size Greater Than BBO measures the number of market and marketable limit orders which exceed the best bid and offer (''BBO'') size. When a market or marketable limit order is executed, the order must meet two tests to be counted: first, the original order size must be greater than the BBO size; and second, the execution size must be greater than the BBO size. If the execution size is greater than the bid size (for a sell order) or offer size (for a buy order), the trade is counted as one that was executed in size greater than the BBO. If there is a trading halt or period when the P/COAST system is experiencing problems, those blocks of time will not be included in the Executions in Size Greater Than BBO calculation. For this criterion to count toward the overall evaluation score, ten orders or more must have been executed during the quarter the specialist is being evaluated. If less than ten orders are executed, this criterion will not be counted and the rest of the evaluation criteria will be given more weight.

The specialist will be awarded points based on the percentage of orders that are executed that exceed the BBO size. This category will count for 10% of the overall score. The parameter ranges and corresponding points for Executions In Size Greater than BBO are listed below:

Percent of orders parameter range	Points
98–100	10
95–97.999	9
92–94.999	8
89–91.999	7
86–88.999	6
83–85.999	5
80–82.999	4
77–79.999	3
74–76.999	2
71–73.999	1
0–70.999	0

b. Specialist Evaluation Questionnaire Survey

The Questionnaire is filled out by equity floor brokers on a quarterly basis. The Questionnaire responses will count for 15% of the overall score. Each question in the Questionnaire has a possible rating of 1 to 10. Each question will be weighted equally and will count for 1.875% of the overall evaluation score.

The Questionnaire currently solicits from floor brokers ratings in the following categories: the quality of markets maintained by the specialists; the specialists's effectiveness in his (her) handling of orders; communication; and the specialist's handling of clerical and administrative matters. The Questionnaire will be expanded to solicit from floor brokers ratings on the specialist's: Handling of manual orders for a size greater than that provided for in the BBO; failure to trade on displayed quotes; representation of the broker's orders in his (her) quotes; and facilitation of crosses.

The new questions proposed to be added to the Questionnaire are the following: Does the specialist handle manual orders from floor brokers for greater than the BBO size?; Does the specialist fail to trade on his (her) displayed quotes?; Does the specialist adequately represent brokers' orders in the quotes?; and Does the specialist allow for easy facilitation of crosses?

c. Book Display Time

This criterion calculates the percentage of the book shares at the best price in the book that are displayed in the specialist's quote, by symbol, and

[4] *I.e.*, a specialist will receive fewer points the larger the percentage of orders that he (she) holds for greater than 25 seconds.

the duration of time that each percentage is in effect. This criterion rates the P/COAST book displayed 100% of the time. The sizes of all open buy limit orders at the best price for the symbol in the specialist's book will be totaled and compared to the bid size quote. The sizes of all open sell limit orders at the best price for the symbol in the book will be totaled and compared to the offer size quote. This will be done for each symbol traded by the specialist, and only for those orders priced within the primary quote. Limit orders in the book which are priced beyond the primary quote will not be included; they will not be executed until they reach the price in the primary quote, so the specialist should not be required to cover them in his (her) quote sizes.

The specialist will be awarded points on the basis of the percentage of the book that the specialist displays. This category will count for 15% of the overall score. The parameter ranges and corresponding points for Book Display Time are listed below:

Percent of book parameter range	Points
80 +	10
75 – 79	9
70 – 74	8
65 – 69	7
60 – 64	6
55 – 59	5
50 – 54	4
45 – 49	3
40 – 44	2
35 – 39	1
0 – 34	0

d. Post-1 P.M. Parameters

This criterion measures the specialist's quote performance in the post-1 p.m. (Pacific Time) auction market (''Extended Trading Session'').[5] The Post-1 P.M. Parameters criterion has the following features:

1. Specialists' activity is recorded in post-1 p.m. files, where there is one record for each quote and trade per post and symbol as they occur during the Extended Trading Session.

2. Specialists are not subject to the post-1 p.m quote-spread parameters until after 1:10 p.m. This allows the specialists time to do any primary market runoff business that is necessary.

3. The specialist's quote prices in effect ten minutes past the beginning of the Extended Trading Session must be within the defined number of trading fractions of the primary closing quote.

A. If the primary exchange is the NYSE, and the primary bid price at closing on that day for the stock is under $1.00, the trading fraction is 1/16; if the price is at or over $1.00, it is 1/8.

B. If the primary exchange is the Amex, and the primary bid price at closing on that day for the stock is under $10.00, the trading fraction is 1/16; if the price is at or over $10.00, it is 1/8.

4. The specialist's quote sizes in effect ten minutes past the beginning of the Extended Trading Session must be 500 shares or more if the primary bid price is less than $50.00, or 200 shares if the primary bid price is $50.00 or more.

5. The specialist's quote-spread parameters must apply to a minimum of 25% of the stocks traded at the post to receive full credit on the evaluation (*i.e,* 10 points).

6. If the specialist executes any trades after ten minutes of the Extended Trading Session and they are priced within the allowable trading fraction of the primary closing quote price, the quantity of the trade is deducted from the required quote size.

7. If the specialist changes his (her) quote at any time on the same day for that symbol while the required quote size is not zero, his (her) quote price must be within the allowable trading fraction from the primary closing bid price and his (her) quote size must be at least the remaining quote size required (as adjusted for trades, as explained in item 6). If either the price or size on either side of the quote for that symbol does not comply, the symbol is not counted as adhering to the parameters for that day.

8. If, at the end of the Extended Trading Session, the required quote size is still not zero (after adjusted for trades) for bid and/or ask, but the specialist has complied with the quote price and size guidelines on both and ask, the symbol is counted as one that adhered to the parameters.

This category will count for 10% of the overall score. The parameter ranges and corresponding points for Post-1 P.M. Parameters are listed below:

Percent of book parameter range	Points
25 +	10
22 – 24.999	9
19 – 21.999	8
16 – 18.999	7
13 – 15.999	6
10 – 12.999	5
7 – 9.999	4
4 – 6.999	3
0 – 3.999	0

e. Quote Performance

This category, on which 10% of each specialist evaluation is based, consists of two subcategories: (a) Equal of Better Quote Performance; and (b) Better Quote Performance.

Equal or Better Quote Performance calculates for each issue traded, the percentage of time in which specialist's bid or offer is equal to or better than the primary market quote with a 500-share market size or the primary market size, whichever is less, with a 200-share market minimum. This category will count for 5% of the overall score. The parameter ranges and corresponding points for Equal or Better Quote Performance are listed below:

Percent of time parameter range	Points
40 +	10
36 – 39	9
32 – 35	8
28 – 31	7
24 – 27	6
20 – 23	5
16 – 19	4
12 – 15	3
8 – 11	2
4 – 7	1
0 – 3	0

Better Quote Performance calculates for each issue traded, the percentage of time in which a specialist's bid or offer, is better than the primary quote with a 500-share market size or the primary market size, whichever is less, with a 200-share minimum. This category will count for 5% of the overall score. The parameter ranges and corresponding points for Better Quote Performance are listed below;

Percent of time parameter range	Points
34 +	10
3 – 3.999	9
2 – 2.999	8
1 – 1.999	7
0 – 0.999	0

The Exchange noted that the pilot program only modifies the performance criteria of PSE Rule 5.37(a); consequently, during the pilot the EAC will evaluate the performance of specialists in accordance with the standards and procedures found in PSE Rule 5.37. The Exchange represented that during the nine month pilot, it will re-program its computer program so that the following three criteria are based upon the national best bid and offer (''NBBO'') instead of the primary market bid and offer: Trading Between the Quote, Book Display Time, and Quote Performance.[6] The Exchange also represented that during the pilot it will establish an overall passing score for the

[5] The PSE's Extended Trading Session is an auction market trading session that runs from 1:00–1:50 p.m. (Pacific Time).

[6] See Securities Exchange Act Release No. 37590 (August 21, 1996), 61 FR 44376 (August 28, 1996).

performance evaluation as well as individual passing scores for each criterion. The Exchange further stated that it will file a proposed rule change with the Commission pursuant to Rule 19b–4 of the Act that will include these changes by May 1, 1997.[7]

III. Discussion

The Commission believes that specialists play a crucial role in providing stability, liquidity, and continuity to the trading of stocks. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules promulgated thereunder, is the maintenance of fair and order markets in their designated securities.[8] To ensure that specialists fulfill these obligations, it is important that the Exchange conduct effective oversight of their performance. The PSE's specialist evaluation program is critical to this oversight.

The PSE's proposed pilot program adds three new objective measures to the Exchange's specialist evaluation program and eliminates one of its objective performance measures. The first new objective measure, Executions, consists of four submeasures: Turnaround Time, Holding Orders Without Action, Trading Between the Quote, and Executions in Size Greater Than BBO. Turnaround Time and Holding Orders Without Action (30% of the overall program weight) apply to the timeliness of executions of orders received by specialists; Trading Between the Quote (10%) applies to the execution prices of orders directed to specialists; and Executions in Size Greater That BBO, applies to the depth of the markets provided by specialists.

The Commission notes that these submeasures are almost identical to the objective measures currently used in the Boston Stock Exchange, Inc.'s (''BSE'') specialist performance evaluation program (''SPEP'').[9] The Commission believes that the adoption of the Execution measure will greatly enhance the Exchange's specialist evaluation program in that its component submeasures should generate sufficiently detailed information to enable the Exchange to make accurate assessments of specialist performance in the areas of timeliness of executions, price performance, and market depth.

The second proposed measure of specialist performance, Book Display Time, calculates for each security the percentage of shares in the specialist's book at the best price in the book that are displayed in the specialist's quote, and the duration of time that each percentage is in effect. The Commission also believes that the adoption of this measure is appropriate, in that it may encourage PSE specialists to display a greater percentage of the best priced limit orders in a security in their quotes, thereby increasing PSE market depth and the possibility of execution for such limit orders.[10]

The third proposed measure of specialist performance, Post 1-P.M. Parameters, calculates each specialist's quote performance during the Exchange's Extended Trading Session. Given that the PSE is one of either two or three national securities exchanges conducting an auction market trading session between 1:00 and 1:30 p.m. (PT),[11] and the only such exchange doing so between 1:30 and 1:50 p.m. (PT), the quality of PSE specialists' quote performance is of particular importance during this time. The Exchange's current evaluation program does not include a performance measure specifically tailored to the Extended Trading Session. Accordingly, Commission believes that the adoption of this measure is appropriate as it will provide such a performance measure as well as a possible incentive to PSE specialists to maintain or improve their quote performance during this time.

The Commission finds that the Exchange's proposal to expand its former National Market System Quote Performance measure (referred to as Quote Performance for the nine-month pilot) to include a performance measure for bettering the quote is, with one qualification discussed below,[12] responsive to the previous request by the Division of Market Regulation for the inclusion of such a measure in the PSE's evaluation program.[13]

Furthermore, the exchange is proposing to eliminate SCOREX Limit Order Acceptance Performance, which calculates the percentage of limit orders accepted by specialists, as a measure of specialist performance. In light of the adoption of the three new performance measures into the Exchange's evaluation program, one of which will measure limit order handling in particular (Book Display Time), the Commission believes that the elimination of this proposal from the PSE's evaluation program is appropriate.

The Exchange is also proposing to add four new questions to its Questionnaire and to reduce the weight of the Questionnaire from 45% to 15% of the overall evaluation program. The Commission believes that the new questions should solicit additional relevant information as to the market making performance of PSE specialists. Moreover, the Commission finds that the reduction in the weight of the Questionnaire is appropriate in that it will accommodate the inclusion of the proposed new objective criteria into the PSE's evaluation program, while still maintaining the combination of a subjective floor broker survey and objective performance criteria that, as the Commission previously stated, should provide an exchange with an effective and fair means of evaluating specialist performance.[14]

Despite the improvements to the existing specialist performance evaluation program being adopted herein, the Commission is concerned with the Exchange's use of the primary market quote, instead of the NBBO, in the proposed Trading Between the Quote, Book Display Time, and Quote Performance measures.[15] The Commission believes that the use of the NBBO in this context is necessary to guage the performance of PSE specialists in comparison with their competitors in the national market system. The Exchange's proposed use of the primary market quote in these three measures does not allow for such comparisons to be made in instances where the primary market quote is not equal to the NBBO.[16]

[7] *Id.*

[8] Rule 11b–1, 17 CFR 240.11b–1; PSE Rules 5.29(f).

[9] See *infra* notes 15–16 and accompanying text. For a detailed description of the BSE's SPEP, see Securities Exchange Act Release Nos. 31890 (February 19, 1993), 58 FR 11647 (February 26, 1993) (order approving incorporation of objective criteria into BSE SPEP); 37581 (August 19, 1996), 61 FR 43797 (August 26, 1996) (order approving revision of program weights applicable to objective criteria).

[10] However, the Exchange's use of the primary market quote instead of the NBBO in calculating this measure may reduce the possibility of these beneficial effects occurring during the pilot program. See *infra* notes 15–16 and accompanying text.

[11] The Philadelphia Stock Exchange, Inc. conducts a post-4 p.m. (ET) auction market trading session between 4:00–4:15 p.m. (ET), while the Chicago Stock Exchange, Incorporated conducts such a session between 4:00–4:30 p.m. (ET).

[12] See *infra* notes 15–16 and accompanying text.

[13] Telephone Conversation between Jeff Norris, Special Projects and Financial Administration Manager, PSE, and Sharon Lawson, Senior Special Counsel, SEC, dated July 20, 1995.

[14] See, *e.g.* Securities Exchange Act Release No. 28843 (February 1, 1991), 56 FR 5040 (February 7, 1991) (order permanently approving PSE specialist evaluation program); SEC, Division of Market Regulation, The October 1987 Market Break Report (''Market Break Report'') (February 1988), at xvii.

[15] See *supra* notes 8, 9, and 11.

[16] The following illustrates the difficulties arising out of the PSE's use of the primary market quote instead of the NBBO in these three measures: PSE specialists will receive credit in Trading Between the Quote when the primary market bid (offer) is lower (higher) than the NBBO and the specialist

Continued

Although the Commission is concerned about approving a specialist evaluation program containing objective measures that are more appropriately based on the NBBO,[17] the Commission believes that approval of the proposal on a pilot basis is appropriate. The Exchange has represented that during the operation of the pilot it will reprogram its computer systems so that these three measures are calculated using the NBBO instead of the primary market quote and will submit a rule change pursuant to Rule 19b–4 by May 1, 1997 to effect this change.[18] Moreover, the Exchange has represented that the reprogramming of these measures may take up to six months. As the Exchange's revision of its objective performance measures already has been subject to significant delays,[19] and the Commission feels that the proposed specialist evaluation program is a substantial improvement over the existing program even with the use of the primary market quote in these measures, the Commission believes that it is appropriate to approve the proposal on a pilot basis. This will allow the PSE to commence using the new measures immediately for the last quarter of 1996.

The Commission has previously stated that true relative performance standards are the preferable means to evaluate comparative performance of specialists on a national securities exchange.[20] Moreover, the Commission has also stated that an effective evaluation program should subject specialists who meet minimum performance levels on the overall program, but need help or guidance in improving their performance in a particular area, to review. While PSE's specialist evaluation program subjects those specialists falling into the bottom 10% of all specialists on his or her trading floor to review by the EAC, it does not set a minimum performance level on the overall program. In addition, the Exchange has not established minimum performance standards for individual performance measures. However, the Commission notes that the PSE has represented that it will establish an overall passing score for the evaluation program as well as individual passing scores for each performance measure during the course of the pilot.

Accordingly, the Commission believes that it is appropriate to approve this rule filing on a nine-month pilot basis, expiring July 1, 1997. This nine-month period will enable the Exchange to determine the appropriateness of the newly adopted objective measures, their respective weights and the acceptable levels of performance; reprogram its systems so that Trading Between the Quote, Book Display Time and Quote Performance are calculated using the NBBO instead of the primary market quote; develop an overall passing score for the performance evaluation as well as individual pausing scores for each criterion; as well as to review the effectiveness of the overall PSE Rule 5.37 equity evaluation program.

The Commission therefore requests that the PSE submit by May 15, 1997 a proposed rule change pursuant to Rule 19b–4 to revise the pilot to utilize the NBBO to calculate the Trading Between the Quote, Book Display Time, and Quote Performance measures; a passing score for the overall performance evaluation as well as each criterion, and a request to extend the pilot beyond July 1, 1997. The Commission also requests that the PSE submit a report to the Commission, by May 15, 1997, describing its experience with the pilot. At a minimum, this report should contain data, for the last review period of 1996 and the first review period of 1997, on (1) the number of registered specialists who scored in the bottom 10% of all registered specialists on his or her trading floor in the overall program; (2) the number of specialists who, as a result of scoring in the bottom 10% in any one quarterly evaluation, appeared before the EAC, and the type of restrictions that were imposed on such specialists (*i.e.*, restriction on new allocations or acting as an alternate specialist), or any further action that was taken against such specialists; (3) the number of specialists who, as a result of scoring in the bottom 10% in any two out of four consecutive quarterly evaluations, appeared before the EAC, whether any restrictions were imposed on such specialists, and whether formal proceedings were initiated against such specialists; and (4) the number of specialists for whom formal proceedings were initiated, the results of such proceedings, including a list of any stocks reallocated from a particular unit.

For the reasons discussed above, the Commission finds that the PSE's proposal to modify its Rule 5.37 specialist evaluation program performance measures is consistent with the requirements of section 6(b) and 11 of the Act[21] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act[22] and Rule 11b–1 thereunder which allow securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets and to remove impediments to and perfect the mechanism of a national market system.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–PSE–96–28) is approved on a pilot basis, through July 1, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

[FR Doc. 96–25762 Filed 10–7–96; 8:45 am]

BILLING CODE 8010–01–M

effects a trade at the NBBO; PSE specialists will receive credit in Book Display Time for displaying its limit orders priced at the primary market bid (offer) is lower (higher) than the NBBO; and, PSE specialists may receive credit in either component of the Quote Performance measure when the specialist's quote is equal to or better than the primary market quote but either inferior or equal to the NBBO.

[17] The use of the primary market quote rather than the NBBO may be appropriate in limited circumstances. For example, the primary market closing price may be useful as a benchmark to specialist performance in a post-4 p.m. action market trading session, and is therefore appropriate for use in the proposed Post—1 p.m. Parameters measure.

[18] See Securities Exchange Act Release No. 37590, *supra* note 6.

[19] See Letter from Sharon Lawson, Senior Special Counsel, SEC, to David P. Semak, Vice President—Regulation, PSE, dated January 9, 1995 (requesting PSE to submit revised specialist evaluation program by October 31, 1995); Letter from David P. Semak, Vice President—Regulation, PSE, to Sharon Lawson, Senior Special Counsel, Commission, dated April 6, 1995 (requesting extension to April 30, 1996); Letter from David P. Semak, Vice President—Regulation, PSE, to Sharon Lawson, Senior Special Counsel, Commission, dated August 11, 1995 (requesting extension to July 31, 1996).

[20] By relative performance standards the Commission means standards that automatically subject specialists that fall below a predetermined threshold of performance to a special performance review by the appropriate exchange authority. See Securities Exchange Act Release No. 28843, *supra* note 14; Market Break Report at xvii and 4–28 to 4–29.

[21] 15 U.S.C. 78f (b) and 78k.

[22] 15 U.S.C. 78k (b).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

UNITED STATES SENTENCING COMMISSION

Rules of Practice and Procedure

Editorial Note. This document was originally published at 61 FR 51738, October 3, 1996, and is being reprinted in its entirety because of typesetting errors.

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed rules of practice and procedure. Request for public comment.

SUMMARY: Pursuant to its authority under 995(a)(1) of title 28, United States Code, the Sentencing Commission is considering the promulgation of internal rules of practice and procedure. Proposed rules were published on July 29, 1996 with comment due on November 1, 1996. 61 FR 39493–96. Pursuant to the same authority, the Commission is considering additional provisions to those rules that are set forth below. The Commission invites comment on these proposed rules.

DATES: Written comment on the previously published draft rules and these revised supplemental provisions should be submitted to Michael Courlander, Public Information Specialist, no later than December 16, 1996. It should be noted that this deadline represents an extension of time for comment on the draft rules published in July.

ADDRESSES: Comments should be sent to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2–500, South Lobby, Washington, D.C. 20002–8002, Attention: Public Information.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273–4590.

SUPPLEMENTARY INFORMATION: Section 995(a)(1) of title 28 authorizes the U.S. Sentencing Commission, an independent agency in the judicial branch of the United States Government, to establish general policies and promulgate rules and regulations for the Commission as necessary to carry out the purposes of the Sentencing Reform Act of 1984.

The new provisions contained herein address moving to a two-year cycle for guideline amendments, rules for decisions on retroactivity of proposed amendments, and reconsideration of amendments. The entire set of rules of practice and procedure are designed to facilitate public understanding and participation in the work of the Sentencing Commission. For the most part, these rules do not represent a substantive change in the way the Commission has traditionally conducted its business. These rules are not intended to enlarge the rights of any person sentenced under the guidelines promulgated by the Commission or otherwise create any private right of action.

Authority: 28 U.S.C. 995(a)(1).

Richard P. Conaboy,

Chairman.

Revised Rules of Practice and Procedure

The following are the previously published draft rules that are proposed to be modified. Changes are noted in italics.

Rule 2.2 Voting Rules for Action by the Commission

Except as otherwise provided in these rules or by law, action by the Commission requires the affirmative vote of a majority of the members at a public meeting at which a quorum is present. A quorum shall consist of a majority of the members then serving. Members shall be deemed ''present'' and may participate and vote in public meetings from remote locations by electronic means, including, but not limited to, telephone, satellite and video conference devices.

Promulgation of guidelines, policy statements, official commentary, and amendments thereto shall require the affirmative vote of at least four members at a public meeting. See 28 U.S.C. 994(a).

Publication of proposed amendments to guidelines, policy statements, or official commentary in the Federal Register to solicit public comment shall require the affirmative vote of at least three members at a public meeting. *Similarly, the decision to instruct staff to prepare a retroactivity impact analysis for a proposed amendment shall require the affirmative vote of at least three members at a public meeting.*

Action on miscellaneous matters may be taken without a meeting based on the affirmative vote of a majority of the members then serving by written or oral communication. Such matters may include, but are not limited to, the approval of budget requests, legal briefs, staff reports, analyses of legislation, and administrative and personnel issues.

A motion to reconsider Commission action may be made only by a Commissioner who was on the prevailing side of the vote for which reconsideration is sought, or who did not vote on the matter. Four votes are necessary to reconsider a Commission vote on any question on which a four-vote majority is required.

Rule 5.1 Promulgation of Amendments

The Commission may promulgate and submit to Congress amendments to the guidelines between the beginning of a regular session of Congress and the first day of May that year. Amendments shall be accompanied by a brief explanation or statement of reasons for the amendments. Unless otherwise specified, or unless Congress legislates to the contrary, amendments submitted for review shall take effect on the first day of November of the year in which submitted. 28 U.S.C. 994(p).

The Commission may promulgate amendments at other times pursuant to special statutory enactment (*e.g.*, the ''emergency'' amendment authority under section 730 of the Antiterrorism and Effective Death Penalty Act of 1996).

Amendments to policy statements and commentary may be promulgated and put into effect at any time. However, to the extent practicable, the Commission shall endeavor to include amendments to policy statements and commentary in any submission of guideline amendments to Congress and put them into effect on the same November 1 date as any guideline amendments issued in the same year.

Except as necessary to implement enacted legislation or to address other matters determined by the Commission to be urgent and compelling, the Commission shall, after May 1, 1997, promulgate or amend the guidelines no more frequently than biennially. No amendments shall be issued in the annual amendment cycle beginning on May 2, 1997 except as provided in this rule.

Generally, promulgated amendments will given prospective application only. However, in those cases in which the Commission considers an amendment for retroactive application to previously sentenced, imprisoned defendants, it shall decide whether to make the amendment retroactive at the same meeting at which it decides to promulgate the amendment. Prior to final Commission action on the retroactive application of an amendment, the Commission shall review the retroactivity impact analysis prepared pursuant to Rule 2.2, supra.

Rule 5.4 Federal Register *Notice of Proposed Amendments*

As stated in Rule 2.2, supra, upon the affirmative vote of three voting members, the Commission may authorize publication in the Federal Register of a proposed amendment to a guideline, policy statement, or official commentary. A vote to publish shall be

deemed to be a request for public comment on the proposed amendment. *At the same time the Commission votes to publish proposed amendments for comment, it shall request public comment on whether to make any amendments retroactive. As stated in Rule 5.1, supra, generally, amendments will be given prospective application only.*

The notice of proposed amendments also shall provide, where appropriate and practicable, reasons for consideration of amendments, a summary of or reference to information that is relevant to the issue(s), and whether the Commission possesses information on the issue(s) that is publicly available. In addition, the publication notice shall include a deadline for public comment and may include a notice of any scheduled public hearing(s) or meetings on the issue(s).

In the case of proposed amendments to guidelines or issues for comment that form the basis for possible guidelines amendments, to the extent practicable, there shall be a minimum period of public comment of at least 60 calendar days prior to final Commission action on the proposed amendments.

[FR Doc. 96–25366 Filed 10–2–96; 8:45 am]

BILLING CODE 1505–01–D

SMALL BUSINESS ADMINISTRATION

Public Meeting

The U.S. Small Business Administration, Region V, Minnesota District Advisory Council, located in the geographical area of Minneapolis/St. Paul, will hold a public meeting on Friday, November 15, 1996, at 11:30 a.m., at the Decathlon Club, 1700 East 79th Street, Bloomington, Minnesota, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Edward A. Daum, District Director, U.S. Small Business Administration, 610–C Butler Square, 100 North Sixth Street, Minneapolis, Minnesota 55403, (612) 370–2306.

Dated: October 1, 1996.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 96–25711 Filed 10–7–96; 8:45 am]

BILLING CODE 8025–01–P

Public Meeting

The U.S. Small Business Administration, Region I, Providence, Rhode Island District Advisory Council, will hold a public meeting on Thursday, October 10, 1996, at 8:00 a.m., at the Providence Marriott, Charles at Orms Streets, Providence, Rhode Island 02904, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Joseph P. Loddo, District Director, U.S. Small Business Administration, 380 Westminster Street, Providence, Rhode Island 02903, (401) 528–4561.

Dated: October 1, 1996.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 96–25712 Filed 10–7–96; 8:45 am]

BILLING CODE 8025–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comment: Deregulation Measures in Japan

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written comments regarding deregulation measures in Japan.

SUMMARY: The Government of the United States plans to submit to the Government of Japan comments regarding economic deregulation measures by the Government of Japan. The United States Trade Representative (USTR) solicits comments from interested parties regarding specific laws, regulations, or regulatory practices in Japan, the removal or modification of which would improve market access for United States products or services.

DATES: Comments are due on or before noon on October 18, 1996.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Byron Sigel, Director for Japanese Affairs, (202) 395–5070, or Joanna McIntosh, Assistant General Counsel, (202) 395–7203.

SUPPLEMENTARY INFORMATION: On March 31, 1996, the Government of Japan published revisions to its 1995 Deregulation Action Plan. The Government of Japan intends to announce further revisions to this Action Plan next spring.

Prior to the announcement of the revisions in March 1996, the United States Government held several consultations with the Government of Japan regarding deregulation and competition policy issues. On November 21, 1995, the Government of the United States, under the coordination of the Office of the United States Trade Representative, submitted to the Government of Japan specific written comments regarding the deregulation process, competition policy issues, administrative reform process, and specific suggestions for deregulation measures. The comments submitted by the Government of the United States are available for public inspection and copying in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20506. An appointment to review the comments may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday. The list of issues raised in the comments is provided in the attached appendix.

The Government of the United States plans to consult further with the Government of Japan regarding the measures announced last spring as well as additional deregulation and competition policy measures and issues. The Government of the United States plans to submit to the Government of Japan further specific comments addressing these areas.

Request for Public Comment

Interested persons are invited to submit written comments on specific laws, regulations, or regulatory practices in Japan, the removal or modification of which would improve market access for United States products or services. Comments need not be limited to the sectors covered by the deregulation measures previously announced by the Government of Japan or commented on by the United States Government, but may address any sector. Comments should identify and explain the laws, regulations, and regulatory practices in sufficient detail to allow a full understanding of the regulatory issues and market access concerns.

In addition to comments regarding specific laws, regulations, or regulatory practices, USTR is interested in receiving comments from interested persons regarding regulatory processes and procedures, for example regarding transparency or review of administrative actions, which affect market access. USTR also solicits comments regarding the specific experiences and suggestions of interested parties with respect competition laws and policies and their enforcement in Japan, as well as other laws and policies which may facilitate or tolerate anticompetitive conduct.

Comments are due no later than noon on October 18, 1996. Comments must be in English and provided in twenty copies to: Byron Sigel, Room 322, USTR, 600 17th Street, NW, Washington, DC 20506.

Comments will be placed in a file open to public inspection, except confidential business information. Parties requesting that confidential business information they submit be exempt from disclosure must mark the confidential business information in the same manner as described in 15 CFR § 2006.15(b), i.e., it must be clearly marked ''BUSINESS CONFIDENTIAL'' in contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the file that is open to public inspection.

Appendix—List of Previously Raised Issues Specific Deregulation Proposals

A. Agriculture
1. Phytosanitary Quarantine Restrictions
2. Food Additives/Product Standards
3. Feedgrains
4. Racehorses
5. Wood Products

B. Automotive and Motorcycles
1. Automotive
2. Motorcycles

C. Construction
1. ''Common Specifications'' *(Kyotsu Shiyosho)*
2. Standards
3. Product Testing
4. Product Approval/Certification Organs
5. Better Living Mark
6. T-Mark Regulations
7. Requirements and Regulations
8. Licensing
9. Study Committees
10. Multi-story and Multi-family Residential Units
11. Working Visas
12. Procurement Procedures for Construction-related Contracts

D. Distribution-related
1. Import Processing
2. Standards and Certification
3. Distribution and Wholesaling
4. Retail Distribution
5. Liquor Distribution
6. Premiums and Sales Promotions

E. Energy Production and Delivery
1. Electrical Equipment
2. Electric Power Generation, Transmission and Distribution
3. Petroleum and Related Products, and Natural Gas

F. Insurance and Financial Services
1. Insurance
2. Financial Services

G. Investment
1. Access to Land and Facilities
2. Investment Deregulation
3. Employment Policies
4. Mergers and Acquisition

H. Legal Services

I. Medical/Pharmaceuticals
1. Reimbursement Approval Process
2. Clinical Investigation
3. Product Approval
4. Gamma Sterilization
5. Electronic Beam Sterilization
6. Sterility Assurance
7. Material Information/Foreign Data
8. Combination of Medical Device Kit
9. Transfer of Import Approval/Import License
10. Business Office Issues
11. Pharmaceuticals Included in Disposable Medical Device Kits
12. Product Dimensions in Applications for Approval
13. Soft Contact Lens Disinfection Method

J. Redemption Game Machines

K. Telecommunications
1. Market Entry/Rate Regulation
2. Interconnection
3. Transparency
4. Cable TV

L. Transportation
1. Freight Transportation
2. Maritime
3. Aircraft/Airports

Adminsitrative Reform Proposals

A. Information Disclosure and Retention
B. Advisory Committees and Study Groups
C. Industry Associations
D. Administrative Regulations and Procedures
E. Review of Administrative Actions

Competition Policy Proposals

A. Strengthen the Structure and Organization of the JFTC
B. Enhance the JFTC's Investigatory and Enforcement Powers
C. Prevent Anticompetitive Practices by trade Associations
D. Strengthen Coordination Between the JFTC and Other Ministries on Proposed Administrative Guidance
E. Eliminate Antimonopoly Exemptions
F. Increase Efforts to Eliminate Dango
G. Eliminate International Contract Notification Requirements
H. Include Private Remedies Against Antimonopoly Violators

Byron Sigel,

Director for Japanese Affairs.

[FR Doc. 96–25674 Filed 10–7–96; 8:45 am]

BILLING CODE 3190–01–M

Report on Trade Expansion Priorities Pursuant to Executive Order 12901 (''Super 301'')

AGENCY: Office of United States Trade Representative.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Acting United States Trade Representative (USTR) has submitted the report on United States trade expansion priorities published herein to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the United States House of Representatives pursuant to the provisions (commonly referred to as ''Super 301'') set forth in Executive Order 12901 of March 3, 1994, as extended by Executive Order No. 12973 of September 27, 1995.

DATE: The report was submitted on October 1, 1996.

FOR FURTHER INFORMATION CONTACT: Irving Williamson, Chairman, Section 301 Committee, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508, (202) 395–3432.

SUPPLEMENTARY INFORMATION: The text of the USTR report is as follows:

Identification of Trade Expansion Priorities Pursuant to Executive Order 12901; October 1, 1996

This report is submitted pursuant to Executive Order No. 12901 of March 3, 1994, as extended by Executive Order No. 12973 of September 27, 1995. Under the Executive Order the United States Trade Representative (USTR) is required, by September 30, 1996, to ''review United States trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent.'' The Executive Order permits the USTR to include, if appropriate, ''a description of foreign country practices that may in the future warrant identification as priority foreign country practices.'' The USTR may also include ''a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, existing bilateral trade agreements, or in trade negotiations with other countries and progress is being made toward their elimination.''

Trade Expansion Priorities

President Clinton's top trade expansion priority continues to be ensuring economic prosperity for the American people by expanding U.S. exports of goods and services. The President is committed to achieving this goal by negotiating agreements that afford access to foreign markets, ensuring that U.S. trading partners comply with their trade agreement obligations, ensuring that U.S. trade laws are vigorously enforced, and that we continue to expand international trade rules to cover sectors of greatest interest to U.S. exporters.

Priority Foreign Country Practices

President Clinton's commitment to the enforcement of trade agreements and U.S. trade laws has been clear from the beginning of his Administration. Through vigorous application of U.S. trade laws and active enforcement of U.S. rights under the new dispute settlement procedures of the WTO, the Administration has effectively opened foreign markets to U.S. goods and services. The President also has successfully used the incentive of access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. The more than 40 enforcement actions already taken are outlined in the attachment to this report.

Under President Clinton's direction, the Office of the USTR has negotiated close to 200 trade agreements—including the World Trade Organization (WTO) agreements, and many other market-opening agreements that expand opportunities for U.S. companies and workers. These agreements, combined with aggressive export promotion and enforcement of U.S. trade laws, have helped increase U.S. exports of goods and services substantially. In the first seven months of 1996, U.S. exports of goods and services were running at an annual rate of $845 billion, some 37 percent higher than in 1992.

For purposes of this report, the Administration has decided not to identify any priority foreign country practices. The most significant foreign trade barriers are already being addressed through Administration's ongoing strategy of actively monitoring and enforcing trade agreements, strategically applying U.S. trade laws, and invoking WTO dispute settlement. Enforcement action is ongoing, not just in response to an annual review. Since 1993, the Administration has enforced its agreements by deploying all available trade enforcement tools at its disposal. The USTR has used the leverage of Section 301 of the Trade Act of 1974 and the ''Super 301'' annual review eleven times to resolve significant problems in foreign markets; used Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 to gain compliance with telecommunications trade agreements with three major trading partners; addressed discrimination in foreign government procurement practices in five cases under Title VII of the Omnibus Trade and Competitiveness Act of 1988; and invoked the dispute settlement procedures of the WTO to protect the interests of U.S. producers and manufacturers in 20 cases, including the three new WTO disputes initiated as a result of this annual review. The Administration has also used the ''Special 301'' provisions in U.S. trade law to improve intellectual property protection in more than fifteen major markets, and has used the benefits of the Generalized System of Preferences program to encourage several developing countries that benefit from that program to improve intellectual property protection or to afford all workers internally recognized worker rights. In addition, the Administration is constantly using the leverage of U.S. trade laws to secure market opening agreements and to eliminate specific trade barriers, without having to formally invoke the provisions of those laws.

New Section 301 and WTO Enforcement Actions

As a result of the 1996 annual review, the Administration is initiating the following new actions:

- Indonesia's national auto policy: Indonesia has recently expanded a domestic auto policy that offers tax and tariff incentives to increase the local ownership of automotive companies in Indonesia and the local content of the automobiles they manufacture. Indonesia's national car policy grants tax and tariff benefits to ''national car'' automobile manufacturers based on the percentage of domestic content in their vehicles. This policy adversely affects U.S. experts of autos and auto parts to Indonesia. Therefore, the USTR will request consultations under WTO dispute settlement procedures in the context of an investigation under Section 301 of the Trade Act of 1974. Further steps under WTO dispute settlement procedures will depend on the outcome of the consultations on these measures.
- Brazil's auto program: Brazil offers auto manufacturers reduced duties on imports of assembled cars and other benefits if they export sufficient quantities of parts and vehicles and promise to meet local content targets in their Brazilian plants. The program adversely affects U.S. exports of auto parts in Brazil. In August 1996 the USTR invoked WTO dispute settlement procedures and held consultations with Brazil on these measures. As a result, Brazil has agreed to enter into intensive talks with the United States, with the goal of removing the discriminatory impact of its practices on U.S. exports. The USTR will initiate a Section 301 investigation of these measures, and further steps under WTO dispute settlement procedures will depend on the outcome of the talks with Brazil.
- Australia's export subsidies: Australia provides significant export subsidies despite its obligations under the WTO Agreement on Subsidies and Countervailing Measures. In response to a section 301 petition, the USTR will invoke WTO settlement procedures in the context of an investigation under Section 301 to challenge Australian export subsidies that adversely affect U.S. manufacturers of leather for automobile upholstery.
- Argentina's import duties: Argentina maintains specific import duties on textiles, apparel and footwear that exceed the 35% ad valorem tariff rate to which Argentina committed under the WTO agreements. Argentina also maintains other WTO-inconsistent import barriers. Therefore, the USTR will invoke WTO dispute settlement procedures in the context of an investigation under Section 301.

Strategic Enforcement and Automotive Trade

A top priority of the Clinton Administration has been monitoring implementation of the WTO agreements to ensure that the members of the WTO are living up to their Uruguay Round commitments and complying with the WTO rules. In the course of these monitoring efforts, the United States has focused in particular on foreign practices that could pose serious problems to the international trading system if they proliferate in many markets. Therefore, the Clinton Administration has adopted a strategic enforcement strategy—aimed not only at challenging existing barriers but also at preventing the future adoption of similar barriers around the world. Successful challenges to such measures will establish beneficial precedents not only for the United States but for all WTO members.

Application of the Administration's strategic enforcement strategy is particularly appropriate in the

automotive sector, where trade-related investment measures effect U.S. exports in many countries. Manufacturing of autos and auto parts is a key industry for the United States and access to foreign markets is important for its future growth. The U.S. auto industry has made enormous strides in competitiveness and productivity. As a result of USTR's monitoring of compliance with WTO agreements, the USTR has identified practices that are inhibiting U.S. exports of autos and auto parts and the creation of the jobs associated with those exports. In many cases such practices appear to be consistent with WTO rules, including those under the WTO Agreement on Trade-Related Investment Measures (TRIMs).

In addition to initiating the actions in the auto sector mentioned above, the Administration is pursuing the following other practices affecting the auto sector:

• Bilateral agreement with Japan: In 1995, the United States and Japan negotiated an agreement on market access for foreign automobiles, which addresses the full range of market access barriers regarding sales of autos and auto parts in Japan and to Japanese companies outside Japan. In September 1996, the U.S. and Japan held the first follow-up meeting under the agreement. Results under the agreement in its first year have been very good. Sales of U.S.-made Big Three vehicles in Japan were up more than 40 percent in the first half of 1996, and Japanese purchases of U.S. auto parts are rising steadily. However, full implementation of the agreement remains critical. Among other issues, the United States is concerned about an apparent slackening in the pace of new dealership relationships between the Big Three and Japanese auto dealers, as well as deregulation with respect to the auto parts replacement market in Japan. The United States and Japan will meet regularly during the year to assess progress under the agreement on the basis of quantitative and qualitative factors.

• Bilateral agreement with Korea: The United States concluded a bilateral trade agreement with Korea in 1995 to open the auto market for U.S. automakers. The agreement reduced discriminatory taxes that disadvantage the types of autos U.S. manufacturers produce, eliminated and streamlined auto standards that act as barriers to market access, permitted U.S. advertisers equal access to television time, and allowed foreign majority ownership of auto retail financing entities. Since that agreement was concluded, domestic producers have identified other measures that continue to impede market access. Market penetration by foreign automobiles still remains at less than one percent. In addition, the protected Korean market has provided a sanctuary for Korean manufacturers, allowing them to charge higher prices to their domestic consumers so that they can pursue an aggressive export strategy abroad. USTR is conducting a thorough review of U.S. access to Korea's auto market, including whether additional bilateral commitments are necessary to further open the Korean market, and whether existing barriers violate Korea's obligations under the WTO agreements. USTR officials will raise these issues with Korean officials in Seoul in mid-October.

• China's Automotive Industry Policy: China imposes local content requirements, import restrictions and export performance requirements and other trade distorting measures in its autos sector that are inconsistent with WTO rules. The United States is addressing these measures bilaterally and in the context of negotiations on the accession of China to the WTO, to ensure that such measures are not maintained. The WTO working party on China's accession request meets again in Geneva at the end of October.

• Auto TRIMs monitoring: USTR will carefully monitor and consider action with respect to practices in other major auto markets such as (a) India, where import licensing, domestic content and export performance requirements affect market access; (b) Argentina, where local content requirements have been increased since Argentina notified the WTO of its auto regime pursuant to the TRIMs agreement; and (c) Malaysia, which maintains a national auto program which must be phased out in accordance with the TRIMs Agreement. The next meeting of the WTO Committee on Trade-Related Investment Measures will be held in Geneva on October 10.

Other Bilateral Priorities That May Warrant Identification as Priority Foreign Country Practices in the Future

• Japan Market Access for Insurance: The Administration is continuing negotiations with Japan concerning its implementation of the insurance agreement reached between the United States and Japan in 1994. The core of the dispute centers on the linkage between deregulation of Japan's primary life and non-life insurance markets and the entry of Japanese insurance firms into the so-called ''third sector,'' a segment of the market consisting of such products as personal accident and cancer insurance, which are the areas of greatest strength for foreign firms. The agreement provides that ''radical change in the business environment'' in the third sector will be avoided until significant deregulation of the primary sectors, and a ''reasonable period'' for medium to small and foreign insurance providers to compete in the primary sectors. On September 30, 1996, the U.S. and Japan reached an interim agreement regarding the conditions under which the new subsidiaries of the major Japanese life and non-life companies may offer products in the third sector upon the start-up of their business on October 1, 1996. These conditions will restrict entry by the subsidiaries into the third sector until the two governments reach, before the end of the year, an overall agreement on ''avoiding radical change'' in the third sector and substantial deregulation of the primary sectors. In addition to temporary restrictions in the third sector, the interim agreement provides some important initial primary sector deregulation. However, significantly more primary sector deregulation will be necessary as part of an overall resolution of this issue, consistent with the 1994 agreement.

• Japan telecommunications: In October 1994, the United States and Japan entered into a bilateral agreement to increase access and sales of foreign telecommunications products and services in the Japanese government procurement market. In May 1996, Japan's National Police Agency (NPA) selected two Japanese companies to develop the specifications for a new telecommunications system. When a foreign company challenged this decision under Japan's government procurement bid protest mechanism, the Japanese Government cited the ''order and safety'' exception of the WTO Government Procurement Agreement as the basis for denying any review of this issue. The United States Government has serious concerns about the use of the order and safety exception in this case, and serious concerns about the procedures and manner in which the Japanese Government has conducted this procurement. The two governments held consultations on this issue on September 17, 1996, but made no progress toward resolving the issue. Accordingly, the United States is consulting with industry representatives on appropriate next steps. USTR officials will meet with Japanese officials at the end of October on implementation of the bilateral telecommunications agreement.

• Japan Market Access for Paper and Paper Products: In the April 1992 U.S.-

Japan paper agreement, Japan agreed to take GATT-consistent measures to increase substantially market access in Japan for foreign paper and paperboard products. Nevertheless, a number of structural barriers continue to impede the U.S. paper industry's ability to export into the nearly $40 billion Japanese paper market, which is the world's second largest. The market is restricted by a variety of systemic impediments, including: (1) Exclusionary business practices, (2) the complex and essentially closed Japanese paper distributions systems, (3) interlocking relationships between Japanese producers, distributors, merchants, converters, and corporate end-users, (4) non-transparency in corporate purchasing practices, and (5) inadequate enforcement of the Japanese Anti-Monopoly Act (AMA). The United States is continuing to press Japan to fully implement the agreement and address the outstanding barriers. Further consultations will take place in the near future.

- China Market Access for Agricultural Products: China continues to apply phytosanitary standards to U.S. exports of citrus fruit and wheat, particularly wheat from the Pacific Northwest, that are not based on scientific principles and which act as a virtual ban on these exports. Under the 1992 U.S.-China Market Access Memorandum of Understanding, China committed to remove by October 1993 any non-science-based phytosanitary standards on a number of agricultural items, including citrus and wheat. China is a major potential market for U.S. citrus and wheat producers. Despite further commitments on the part of China and repeated efforts by the United States to negotiate a resolution of these issues, China has yet to remove these non-science-based restrictions. The United States and China have accelerated discussions at senior levels of both governments, with the next round of talks to be held in late October. These issues are also being addressed in the context of WTO accession negotiations.
- Korea telecommunications: In July 1996, the USTR identified Korea as a ''Priority Foreign County'' under Section 1374 of the 1988 Omnibus Trade and Competitiveness Act for failure to address market access barriers to U.S. telecommunications products and services. The United States seeks to address a range of Korean practices and obtain commitments by the Korean government to refrain from interfering in private sector procurement, to provide nondiscriminatory access and regulatory transparency in the telecommunications services sector, and to protect intellectual property rights. The United States seek to conclude a bilateral understanding to resolve these outstanding issues but, absent an agreement, will pursue vigorously all options available under U.S. trade law. The Administration has made clear its intention not to use the full year provided under the statute for these negotiations. The next round of consultations will be held in late October .
- Germany—electrical equipment. In April 1996, the Administration identified Germany under Title VII of the 1988 Omnibus Trade and Competitiveness Act for its failure to comply with market access procurement requirements in the heavy electrical equipment sector. The imposition of trade sanctions provided under Title VII was delayed until September 30, 1996, because consultations suggested a resolution was possible given additional time. On September 25, the German Cabinet approved going forward with legislative reform of the procurement remedies system. The Economics Ministry has also agreed to undertake certain monitoring and outreach actions prior to enactment of the legislation. Accordingly, the USTR has decided to continue the suspension of sanctions while it monitors closely Germany's progress toward making the necessary reforms, and monitors upcoming procurements involving U.S. bidders. The USTR will review the situation on December 1, 1996. If there has been insufficient progress and problems facing U.S. firms persist, USTR will impose sanctions.
- Ecolabeling Directive: The EU Ecolabeling Directive sets forth a scheme whereby EU member states will grant voluntary environmental labels based on criteria approved by the European Commission for products in specific sectors. While the United States supports the concept of ecolabeling and appreciates the EU's attempts to address problems regarding ecolabeling criteria, the United States continues to be concerned that the EU process for developing criteria for certain paper and textile products has not been sufficiently transparent. The EU has committed to improve meaningful participation by non-EU interests, but there is still room for improvement. The United States has urged that the EU ecolabeling program provide meaningful and accurate information to consumers on the environmental impacts of products, and that ecolabeling criteria not be based on a single approach to environmental protection without giving adequate attention to other potentially comparable approaches. Bilateral discussions with the EU under the auspices of the New Transatlantic Agenda will be held on October 28–29 and will focus on the shared environmental objectives of ecolabeling programs.
- EU design—restrictive standards: Use of design standards rather than performance-based standards increasingly creates an impediment to U.S. exports to the EU. The United States has raised its concern with such standards both bilaterally and in the WTO. In particular, the USTR has objected to European standards which, by prescribing non-safety-related design characteristics for gas appliance connectors, preclude the use of U.S.-made connectors in Europe. Progress in obtaining product approvals and/or changes to these standards in certain EU member states may be negated by the recent decision of a European regional standards body to establish a technical committee to develop a European-wide standard for gas connectors. U.S. firms have also expressed concern that the EU may adopt a design-restrictive standard for asphalt shingles that would effectively preclude U.S. exports. To prevent the adoption of further standards-related trade barriers, the United States is continuing bilateral discussions with member state and Commission officials, with the next meetings scheduled for mid-October.
- Saudi Arabia International Conformity Certification Program (ICCP): Saudi Arabia has implemented mandatory certification requirements that affect a wide range of U.S. exports to Saudi Arabia. The certification program fails to meet fundamental obligations, such as transparency and nondiscrimination, that the Saudi government would have to meet as a member of the WTO. The United States has raised its concerns with the certification program, both bilaterally and in the context of Saudi Arabia negotiations to accede to the WTO. Bilateral consultations with Saudi officials were held on September 30 and will resume in Geneva in early November.

Multilateral Priorities

Trade in Services. The General Agreement on Trade in Services (GATS) is the first legally enforceable multilateral agreement covering trade and investment in the services sector. Market access concessions agreed under the GATS provide assurances of open markets and nondiscriminatory treatment for U.S. services exporters. Effective U.S. participation in further negotiations on opening services

markets under the GATS is a high priority.

• Telecommunications Market Access Negotiations: The WTO Agreement provides for continuing market access negotiations in the basic telecommunications services sector. These negotiations cover local, long-distance, and international basic telecommunications services. In these negotiations, the United States has sought to ensure that U.S. firms may provide basic telecommunications services in foreign markets both through facilities-based competition—including the right to build, own, and operate domestic and international network facilities—and through resale of services on existing networks. The United States has also sought to ensure that U.S. companies can compete in foreign markets on reasonable and nondiscriminatory rates, terms, and conditions. The United States has offered to open its telecom market if other nations would open their markets. Unfortunately, the United States did not obtain a critical mass of high quality offers from its trading partners by April 30, 1996, which was the original deadline for these talks. Rather than accept a bad deal—or walk away from the good offers tabled by some countries—the United States won support for an extension of the telecom talks to February 15, 1997. The additional time will allow other nations to significantly improve their market-opening offers, a precondition to any eventual agreement.

• Finanical Services Market Access Negotiations: Financial services are at the heart of the world's economy, facilitating all commerce and making possible the creation, allocation and preservation of capital which is fundamental to economic activity. A country that isolates its financial sector cannot be a full participant in, or beneficiary of, the global economy. The United States has a competitive, world-class financial services industry. For these reasons the Administration has placed the highest priority on a meaningful conclusion of the financial services negotiations that are to take place in 1997 in the WTO. The United States seeks an agreement that provides, on a nondiscriminatory basis, substantially full market access to, and national treatment in, the world's major financial markets, including those in Asia and Latin America, and seeks guarantees that rights now enjoyed by U.S. financial services providers in foreign markets will continue.

Trade Restrictions Imposed for Balance of Payments Purposes. The Uruguay Round produced stronger GATT disciplines on the invocation and maintenance of trade restrictions (quotas or tariff surcharges) imposed for balance of payments (BOP) reasons. The United States has worked in the WTO Balance of Payments Committee to ensure that BOP measures are imposed and maintained only in response to legitimate balance of payments problems, not as a method to protect specific industries or sectors. As a result, 8 of the 13 countries that maintained BOP measures at the end of the Round will have eliminated all such measures by the end of 1996. Further, in 1995 Brazil was denied BOP cover for import quotas designed to protect its auto industry. At forthcoming meetings of the BOP Committee in October and November 1996 and during 1997, the United States will seek to ensure that the remaining BOP measures are eliminated where legitimate balance of payments problems do not exist.

WTO Dispute Settlement Proceedings

During the past year the United States has accelerated its use of the dispute settlement provisions of the World Trade Organization (WTO) to address significant foreign trade barriers. Since the WTO began operation 21 months ago, the United States has decided to invoke the new WTO dispute settlement procedures in 20 cases to enforce the WTO agreements—14 in 1996 alone—including the three new WTO disputes to be initiated as a result of the 1996 Super 301 annual review. This vigorous use of WTO enforcement provisions far exceeds that of any other country. By comparison, Canada and the European Communities have invoked WTO dispute settlement procedures in 8 and 7 disputes respectively.

The WTO dispute settlement procedures have already yielded positive results: The United States won the first case that it took to the WTO, involving Japan's taxes on liquor imports; USTR has signed a settlement agreement in one case, involving EU imports of grains; in one case the defending party has already changed its practice as a result of a U.S. complaint (Portugal's term of protection for patents); and we are close to settlement on at least two others, involving Japan's protection for sound recordings, and Turkey's discriminatory box office tax on foreign films.

Early WTO successes

Japan—liquor taxes. The United States won the first case it referred to a WTO dispute settlement panel when the panel found that Japan's liquor tax law violates WTO rules by favoring the domestic liquor shochu.

• Japan—sound recordings. After the United Stats invoked WTO dispute settlement procedures against Japan for denying protection to millions of dollars' worth of U.S. sound recordings made between 1946 and 1971, Japan agreed to change its law, and consultations are continuing on Japan's plans for implementing such a change.

• EU—grain imports. The United States invoked WTO dispute settlement procedures to enforce the EU's WTO obligation to limit the duties it applies to imports of grains so that a duty does not result in a duty-paid import price in excess of a specified level. Before a panel was established, a settlement was reached in conjunction with the U.S.–EU settlement on EU enlargement. The United States remains concerned about the EU's implementation of this settlement agreement, and will continue to monitor it closely.

• Turkey—film tax. Turkey has taxed box office receipts from foreign films at a higher rate than receipts from domestic films. In WTO consultations, Turkey agreed to eliminate the tax discrimination.

• Portugal—patent protection. After the United States used WTO dispute settlement procedures to challenge Portugal's patent law, which failed to provide the required minimum 20 years of patent protection, Portugal changed its system to implement its obligations under the WTO TRIPs agreement.

Ongoing Disputes

In addition to the three new dispute settlement proceedings already cited in this report, the United States is also addressing the following barriers in the WTO:

• Brazil—auto imports. The United States and Brazil held consultations under WTO dispute settlement procedures in August to address Brazil's auto regime that adversely affects exports of U.S. autos and auto parts. Brazil has agreed to enter into intensive talks to address U.S. concerns.

• Pakistan—patent protection. Pakistan has failed to comply with its WTO obligation to establish a ''mailbox'' mechanism through which persons may file patent applications for pharmaceutical or agricultural chemical products and receive exclusive marketing rights for such products under some circumstances. The Untied States has referred the matter to a WTO dispute settlement panel to enforce this obligation.

• India—patent protection. India has failed to implement its WTO obligation to establish a ''mailbox'' mechanism through which persons may file patent applications for pharmaceutical or

agricultural chemical products and receive exclusive marketing rights for such products under some circumstances. At WTO consultations requested by the United States, India agreed that it is legally obligated to establish mailbox and exclusive marketing rights systems, but it has not yet taken the required action.

• Japan—photographic film and paper. The United States has invoked WTO dispute settlement procedures and requested a panel to address various laws, regulations and requirements of the Government of Japan affecting the distribution, offering for sale and internal sale of imported consumer photographic film and paper. The measures include a number of laws, regulations and administrative actions, originating in Japan's strategy of liberalization countermeasures in this sector, and inhibiting sales of imported film and paper. Japan's photographic film and paper market is valued at about $2.8 billion per year.

• Japan—distribution services. The United States has invoked WTO dispute settlement procedures regarding measures affecting market access for distribution services, applied by the Government of Japan pursuant to or in connection with Japan's Large Scale Retail Stores Law and other laws, and will refer the matter to a panel if it is not resolved through further consultations. These measures affect market access in Japan for a variety of U.S. products, including film.

• Hungary—agricultural export subsidies. The United States, joined by Argentina, Australia, Canada, New Zealand and Thailand, is consulting with Hungary under WTO dispute settlement procedures concerning Hungary's lack of compliance with its scheduled commitments on agricultural export subsidies.

• Canada—magazine imports. The United States has asked a WTO dispute settlement panel to find that Canada's import ban and special excise tax on foreign magazines with content targeted at Canada, and Canada's postal rates discriminating against foreign magazines, are inconsistent with Canada's WTO obligations.

• EU—meat imports. The United States has asked a WTO panel to find that the EU's restrictions on imports of meat from animals treated with growth hormones are inconsistent with its WTO obligations.

• Australia—salmon imports. The United States has invoked WTO dispute settlement procedures concerning Australia's ban on imports of untreated fresh, chilled or frozen salmon. The ban is allegedly imposed for phytosanitary reasons, even though a draft risk assessment found in 1995 that imports of eviscerated fish are not a basis for concern about the transmission of fish diseases to Australia's fish stocks. The Australian government is in the process of reconsidering the scientific basis for the restrictions.

• EU—banana imports. The United States, Guatemala, Honduras, Mexico and Ecuador have asked a WTO panel to find that the EU's practices relating to the importation, sale and distribution of bananas are inconsistent with its WTO obligations. The practices adversely affect the services exports of U.S. banana marketing companies.

• Korea—shelf-life requirements. Following WTO consultations concerning Korea's food regulations, which contained arbitrary shelf-life restrictions that inhibited or precluded U.S. exports of many agricultural products, Korea agreed to convert to a manufacturer-determined shelf-life system for most beef, pork, poultry and other foods. Korea also agreed to remove other barriers to U.S. meat exports. Korea is the third largest market for U.S. agricultural exports. The United States has recently informed Korea of problems that have arisen in implementing the shelf-life agreement and is consulting on those matters. The United States will refer these issues to a WTO dispute settlement panel if these problems are not expeditiously addressed.

• Korea—import clearance. After consultations under WTO procedures concerning Korea's unjustifiably long and burdensome import clearance process for agricultural products, Korea revised its inspection procedures for fresh fruit and vegetables, and stated its intention to reform its food inspection and sanitation system. Since Korea's actions did not resolve the import clearance problems, the United States held further consultations with Korea and is now awaiting detailed information requested in September from Korean officials on specific reforms to its import clearance procedures. The United States will refer the matter to a WTO panel if Korea does not implement the needed changes.

NAFTA Dispute Settlement Proceedings

The United States continues to make use of the dispute settlement provisions of the North American Free Trade Agreement (NAFTA) to address the following significant foreign trade barriers:

• Canada—dairy and poultry tariffs. Following the Uruguay Round, Canada raised its tariffs on several agricultural products. It applies those higher tariffs to U.S. exports of dairy, poultry, eggs, barley and margarine. The United States has asked a NAFTA panel to find that Canada's application of these tariffs on imports from the United States is inconsistent with the NAFTA prohibition against the imposition of new or increased tariffs or the imposition of tariffs in excess of Canada's NAFTA tariff schedule.

• Mexico/Small Package Delivery. Mexico has denied a U.S. firm the ability to operate large trucks in its small package delivery service even though Mexican firms engaged in the same business can do so, despite Mexico's obligation under the NAFTA to accord U.S. firms national treatment in this service sector. Consultations with Mexico under NAFTA procedures are continuing.

Attachment—Trade Enforcement: An Active Record

Section 301 and Super 301

Section 301 of the Trade Act of 1974 is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under international trade agreements and may also be used to respond to unreasonable, unjustifiable or discriminatory foreign government practices that burden or restrict U.S. commerce. Under Section 301 the USTR may take action against such practices, including withdrawing trade agreement concessions and imposing duties, fees or restrictions on imports. In addition, as part of the ''Super 301'' process, the U.S. Trade Representative annually reviews U.S. trade expansion priorities and identifies those priority foreign country practices the elimination of which is likely to have the most significant potential to increase U.S. exports.

The Administration has actively used the leverage of Section 301 and Super 301 to eliminate foreign unfair trade practices and open foreign markets to American goods and services. Indeed, event the threat of imposition of retaliatory measures under Section 301 has, in many instances, resulted in improved market access for American exporters. For example:

• China—intellectual property protection. Employing the leverage of possible trade sanctions, the USTR used Section 301 to reach agreement in February 1995 with China on enforcement of its intellectual property protection laws, and in June 1996 to secure effective enforcement of that agreement.

• Canada—Country Music Television. As a result of a Section 301 investigation of Canadian government practices regarding the authorization for distribution via cable of U.S.-owned programming services, U.S. and Canadian firms reached a settlement in March 1996 that will restore market access.

• EU—banana imports. As the result of a Section 301 petition filed with USTR by Chiquita Brands International, Inc., and the Hawaii Banana Industry Association, the United States reached agreement with Colombia and Costa Rica in January 1996 regarding their actions affecting exports of bananas to the European Union (EU). The United States has also invoked WTO dispute settlement procedures, jointed by Ecuador, Guatemala, Honduras and Mexico, to challenge the EU's import practices, which discriminate against U.S. banana distribution services.

• EU—enlargement. As a result of the enlargement of the EU to include Austria, Finland and Sweden among its member states, U.S. exports of semiconductors and certain other products were subject to higher tariffs. With Section 301 retaliation and WTO dispute settlement rules as leverage, USTR negotiated an agreement with the EU in November 1995 to lower the EU's tariffs on semiconductors and hundreds of other products. The tariff reductions will result in an estimated $4 billion in savings for U.S. companies over the next ten years.

• Korea—auto imports. In conjunction with its annual ''Super 301'' review, the United States negotiated an agreement with Korea in September 1995 to increase access to the Korean market for U.S. passenger vehicles. The agreement reduced by 15 percent the overall tax burden on autos with larger engines, liberalized many Korean standards and certification procedures lifted some restrictions on advertising and retail financing, and provided the Korean Government's assurances that it would no longer promote an anti-import bias among consumers.

• Korea—steel exports. In July 1995, in response to a Section 301 petition from the Committee on Pipe and Tube Imports, the United States reached agreement with Korea on a mechanism to discuss Korea's economic trends and data on steel sheet and pipe and tube products, and Korea agreed to notify the United States in advance of Korean government measures that control steel production, pricing or exports.

• Korea—meat imports. In response to a Section 301 petition filed by the National Pork Producers Council, the American Meat Institute, and the National Cattlemen's Association, the United States negotiated an agreement with Korea in July 1995 on measures to eliminate non-science-based shelf-life requirements and thereby open the Korean market to U.S. meat and other food products. The agreement requires Korea to notify the WTO as it implements each stage of the agreement.

• Japan—auto and auto parts imports. In May 1995 the United States proposing using Section 301 to increase tariffs on luxury cars from Japan, after determining that Japanese policies discriminate against imports of U.S. autos and auto parts. The two governments subsequently reached a results-oriented agreement on measure Japan will take in this sector, including deregulation. The agreement has led to positive results as shown by increased purchases of auto parts by Japanese transplants, deregulation of the Japanese aftermarket for replacements parts, and an increased number of Japanese dealerships displaying foreign cars.

• Canada—beer imports. After the United States imposed retaliatory duties on Canadian beer pursuant to Section 301, the United States and Canada in August 1993 settled a longstanding dispute over access for U.S. beer to the Canadian market.

• Japan—wood product imports. after the United States noted in the 1994 and 1995 Super 301 reports that Japan was not fully implementing the U.S.-Japan bilateral agreement on market access for wood products, cooperation on this issue improved significantly. In an exchange of letters in July 1996, Japan confirmed that it has taken important additional steps toward implementation of the agreement. Japan has also made deregulation of the housing sector and improved market access for building materials a high national priority.

• Taiwan—medical device imports. In conjunction with its annual Super 301 review, the United States obtained a commitment from authorities on Taiwan to address concerns raised by the United States regarding discrimination against U.S. exports of medical devices by requiring cost data from foreign manufacturers not required from domestic firms and by establishing, through non-transparent procedures, arbitrary price controls that favor domestic producers.

''Special 301''—Intellectual Property Protection

Under the ''Special 301'' provisions in U.S. trade law, USTR has at least once a year identified countries that deny adequate and effective protection to foreign intellectual property rights or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious practices and whose practices have the greatest adverse impact on the relevant U.S. products have been designated as ''priority foreign countries'' and were subject to Section 301 investigations. Other countries with particular problems of protection or enforcement of intellectual property rights have been placed on a ''watch list'' or ''priority watch list'' and are monitored closely for progress. Major progress has been made as a result of using Special 301:

• China—intellectual property protection. As noted above, the USTR reached agreement in February 1995 with China on enforcement of its intellectual property protection laws, and in June 1996 to secure effective enforcement of that agreement.

• Brazil. In April 1996, Brazil enacted a new, long-awaited industrial property law, providing patent protection and greater market access for products relying on such protection. This new legislation is a direct result of earlier commitments made by Brazil in February 1994 to settle a Section 301 investigation.

• Taiwan. The Special 301 provisions of U.S. trade law have been used continuously since 1992 to obtain steady progress by authorities on Taiwan in improving the legislative framework available to protect intellectual property rights and the enforcement of those rights in the Taiwan judicial system. In 1994 Taiwan made significant strides in passing intellectual property rights legislation. In April 1996, Taiwan issued an 18-point action plan for enhanced protection, which covered all major remaining areas of concern.

• Thailand. After the United States identified Thailand as a ''priority foreign country'' under the Special 301 provisions of U.S. trade law in 1993, Thailand made steady progress in its protection of intellectual property, including increased enforcement efforts and the enactment of a new copyright law in 1994. In addition, action on a new law establishing intellectual property law courts in nearly complete, and Thailand is in the process of drafting a new patent law.

• The Philippines. As a result of the Special 301 process, the Philippines signed an agreement in April 1993 that made commitments to improve protection of copyrights, patent and trademarks, and to improve enforcement. Since that time, the Philippines has intensified its enforcement efforts, and enactment of

new legislation bringing the country's intellectual property laws in compliance with the WTO agreement on intellectual property should be completed soon.

- Bulgaria. The United States reached an agreement committing Bulgaria to join major international intellectual property conventions and to put in place effective procedures to protect intellectual property rights.
- Singapore. Singapore agreed to provide a level of patent protection consistent with WTO obligations by December, 1995.
- India. India agreed to take steps to protect copyright works.
- Japan. The United States and Japan concluded two bilateral agreements to provide more effective patent protection for U.S. inventors.
- Ecuador. USTR concluded a comprehensive bilateral agreement obligating Ecuador to provide equivalent levels of intellectual property protection and enforcement to that required of NAFTA parties.
- Trinidad and Tobago. USTR concluded a comprehensive bilateral agreement obligating Trinidad and Tobago to provide equivalent levels of intellectual property protection and enforcement to that required of NAFTA parties.
- Jamaica. USTR concluded a comprehensive bilateral agreement obligating Jamaica to provide equivalent levels of intellectual property protection and enforcement to that required of NAFTA parties.
- Estonia. USTR concluded a Trade and Intellectual Property Rights Agreement that is now awaiting approval by the Estonian legislature.
- Latvia. USTR concluded an Agreement on Trade and Intellectual Property Rights Protection.
- Lithuania. USTR concluded a Trade and Intellectual Property Rights Agreement now awaiting approval by the Lithuanian legislature.

Telecommunications Trade (Section 1377)

Under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 the USTR has reviewed annually the operation and effectiveness of U.S. telecommunications trade agreements, and taken action where non-compliance was found.

- Korea. The Administration has used the annual Section 1377 review continuously to address persistent barriers to access by U.S. telecommunications equipment and service suppliers to the Korean market. In 1993, 1995 and 1996 the United States and Korea concluded understandings on a range of issues pertaining to market access for equipment, procurement practices, standards, and intellectual property protection. Under the 1996 review the Administration initiated talks with Korea regarding compliance with existing agreements as well as areas not previously covered, including services and non-interference by the government in private sector procurement.
- Japan. During the 1996 Section 1377 review, the United States and Japan resolved issues relating to procurement by Nippon Telegraph and Telephone (NTT) and NTT's Personal Handy Phone subsidiary, thus providing access to the Japanese market for U.S. suppliers. Previously, Section 1377 was used to enforce the 1989 Third Party Radio and Cellular Telephone Agreement with Japan. The 1994 review had identified a violation of the cellular portion of that agreement, which was resolved when Japan signed a new agreement in March 1994, providing comparable market access to U.S. cellular telephone systems.

Foreign Government Procurement (Title VII)

Under Title VII of the Omnibus Trade and Competitiveness Act of 1988, USTR has annually reviewed compliance by foreign governments with the Government Procurement Code, and identified countries that were discriminating in government procurement against United States goods and services.

- Japan—telecommunications and medical technology. Following identification of Japan under Title VII, in October 1994 the United States and Japan reached agreement on government procurement of telecommunications products and services and medical technology products and services. The United States continues to monitor Japan's compliance with both agreements and to assess tangible progress in Japanese procurement practices in these two sectors.
- Japan—construction. USTR identified Japan under Title VII in April 1993 for discriminatory practices in its public sector construction market. Japan averted sanctions scheduled to go into effect as of January 20, 1994, by announcing a plan to reform its public sector construction market, including measures to expand transparent and non-discriminatory procedures and adopt an open and competitive bidding system. Japan also agreed to monitor foreign access and engage in annual consultations. Since the signing of the most recent U.S.-Japan Public Works Agreement in 1994, U.S. firms have experienced little overall improvement in accessing the Japanese public works market. Consequently, in April 1996, Japan was placed on the Title VII watchlist due to continued concern over the implementation of both the 1994 Public Works Agreement and the 1991 Major Projects Arrangements.
- EU—telecommunications. Title VII trade sanctions were imposed for the first time by the Clinton Administration, against the EU for its discriminatory government procurement practices in the telecommunications sector.
- EU—electrical equipment. Following U.S. announcement of its intention to impose sanctions, the United States and the EU reached a historic agreement in May 1993 on access to EU government procurement of heavy electrical equipment, opening a $20 billion market to U.S. companies. The agreement was expanded in April 1994 to cover the electrical utility sector and subcentral government entities, doubling to $100 billion the bidding opportunities available to U.S. and EU firms under the GATT Government Procurement Code.

WTO Dispute Settlement—Early Successes

The WTO dispute settlement mechanism is proving to be a very effective tool to open markets for U.S. exporters. The United States insisted on tough new dispute settlement rules because we bring—and win—a significant number of cases before dispute settlement panels. And we settle a lot of disputes by initiating the dispute settlement process. Indeed, enforceability of the dispute settlement rules has made settlement of disputes a much more frequent, speedy and useful outcome. Before, the WTO, the global trading rules did less to benefit American workers. The process is already working to our benefit:

- Japan—liquor taxes. In July 1996 the United States won the first case it referred to a WTO dispute settlement panel when the panel found that Japan's liquor tax law violates WTO rules by favoring the domestic liquor shochu. Japan is the United States' second largest export market for whisky.
- Japan—sound recordings. After the United States invoked WTO dispute settlement procedures against Japan for denying protection to millions of dollars' worth of U.S. sound recordings made between 1946 and 1971, Japan agreed to change its law, and consultations are continuing on Japan's plans for implementing such a change.
- EU—grain imports. The United States invoked WTO dispute settlement procedures to enforce the EU's WTO obligation to limit the duties it applies

to imports of grains so that a duty does not result in a duty-paid import price in excess of a specified level. Before a panel was established, a settlement was reached in conjunction with the U.S.-EU settlement on EU enlargement. The United States remains concerned about the EU's implementation of this settlement agreement, and will continue to monitor it closely.

- Turkey—film tax. Turkey has taxed box office receipts from foreign films at a higher rate than receipts from domestic films. In WTO consultations, Turkey agreed to eliminate the tax discrimination.
- Portugal—patent protection. After the United States used WTO dispute settlement procedures to challenge Portugal's patent law, which failed to provide the required minimum 20 years of patent protection, Portugal changed its system to implement its obligations under the WTO TRIPs agreement.

Using Access to the U.S. Market to Encourage Improvements in Worker Rights and Intellectual Property Rights Protection

Congress has provided, and in 1996 renewed, the Generalized System of Preferences (GSP) program of duty-free access for some imports from developing countries. The Clinton Administration has used the GSP program to integrate developing countries into the international trading system in a manner commensurate with their development. The Administration has encouraged GSP beneficiary countries to eliminate or reduce significant barriers to trade in goods, services, and investment; to afford all workers internationally recognized worker rights; and to provide adequate and effective means for foreign nationals to secure, exercise, and enforce intellectual property rights.

- Pakistan. In March 1996 the Administration announced its intention to partially suspend Pakistan's GSP benefits as a result of child labor and bonded labor problems in Pakistan.
- Thailand. The Administration restored GSP benefits to Thailand in 1995 only after Thailand made significant improvements in intellectual property protection.
- Maldives. The Administration suspended GSP benefits for the Maldives in July 1995, for failure to provide worker rights.
- El Salvador, Dominican Republic and Honduras. The Administration used GSP country practice reviews to obtain improvements in worker rights.
- Guatemala and Thailand are being monitored for further progress on worker rights improvements.
- Poland and El Salvador. The Administration concluded in October 1996 reviews after progress on intellectual property rights was achieved.

Irving Williamson,

Chairman, Section 301 Committee.

[FR Doc. 96–25763 Filed 10–7–96; 8:45 am]

BILLING CODE 3190–01–M

WTO Dispute Settlement Proceeding Concerning Certain Japanese Measures Affecting Imported Consumer Photographic Film and Paper

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that a dispute settlement panel convened under the Agreement Establishing the World Trade Organization (WTO) at the request of the United States will examine Japanese government measures affecting the distribution and sale of imported consumer photographic film and paper. USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before November 1, 1996 in order to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Sybia Harrison, Staff Assistant, Room 222, Attn: Film and Paper Dispute, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Joanna McIntosh, Associate General Counsel, Office of the General Counsel, Office of the U.S. Trade Representative, 600 17th Street, N.W. Washington, DC 20508, (202) 395–7203.

SUPPLEMENTARY INFORMATION: At the United States' request, a WTO dispute settlement panel will examine whether certain Japanese government measures affecting the distribution and sale of imported consumer photographic film and paper are consistent with the Government of Japan's obligations under the General Agreement on Tariffs and Trade 1994 (GATT).

The panel is expected to meet as necessary at the WTO headquarters in Geneva, Switzerland to examine the dispute. Under normal circumstances, the panel would be expected to issue a report detailing its findings and recommendations in six to nine months.

Major Issues Raised by the United States and Legal Basis of Complaint

The United States has requested that a WTO panel examine whether the Government of Japan has implemented and maintains laws, regulations, requirements and measures (collectively ''measures'') affecting the distribution, offering for sale, and internal sale of imported consumer photographic film and paper, including: liberalization countermeasures; distribution measures, such as, but not limited to, the cabinet decision, administrative guidance, and other measures listed in the Appendix; the Law Pertaining to the Adjustment of Business Activities of the Retail Industry for Large Scale Retail Stores, No. 109 of 1973 (Daiten Ho); Special Measures for the Adjustment of Retail Business; No. 155 of 1959 (Shocho Ho); the Law Against Unjustifiable Premiums and Misleading Representations, No. 134 of 1962; measures regarding dispatched employees pursuant to the Law Concerning the Prohibition of Private Monopoly and Maintenance of Fair Trade, No. 54 of 1947; the Law Concerning Enterprise Reform for Specified Industries, No. 61 of 1995; the Ministry of International Trade and Industry Establishment Law, No. 275 of 1952; and related measures.

The United States considers that such measures nullify or impair benefits accruing to it, within the meaning of Article XXIII: (1)(a), as a result of the failure of the Government of Japan to carry out its obligations under Articles III and X of the General Agreement on Tariffs and Trade 1994 (GATT). More specifically, Japanese government measures:

- Were implemented and maintained so as to afford protection to domestic production of consumer photographic film and paper within the meaning of GATT Article III:1;
- Conflict with GATT Article III:4 by affecting the conditions of competition for the distribution, offering for sale, and internal sale of consumer photographic film and paper in a manner that accords less favorable treatment to imported film and paper than to comparable products of national origin; and
- Conflict with GATT Articles X:1 and X:3 because the measures lack

transparency in that they were not promptly published and were not administered in a uniform, impartial and reasonable manner.

In addition, the United States considers that the application of these measures by the Government of Japan nullifies or impairs, within the meaning of GATT Article XXIII:(1)(b), the tariff concessions that the Government of Japan made on black and white and color consumer photographic film and paper in the Kennedy Round, Tokyo Round, and Uruguay Round multilateral tariff negotiations.

Appendix

MITI, ''Administrative Guidance To Promote Rationalization of Distribution System,'' 1966.
Cabinet Decision, ''Liberalization of Foreign Investment,'' June 6, 1967.
MITI Industrial Structure Council Distribution Subcommittee, ''Distribution Systemization,'' 1969 (Tsusanho Koho, Aug. 13 & 14, 1969).
MITI Preparatory Survey, ''The Actual State of Trade Practices in Photo Film,'' 1969.
MITI, ''Film Trade Normalization Guidelines,'' 1970.
MITI, ''Business Bureau Report on Film Prices,'' 1970.
MITI, ''Basic Plan for Distribution Systemization,'' 1971.
MITI, ''Manual for Systemization of Distribution,'' 1975.
MITI, ''Guidelines for Improving Business Practices,'' 1990.
MITI and the Small and Medium Enterprises Agency, ''Distribution Vision for the 21st Century,'' 1995 (and earlier versions for the 1970s, 1980s, and 1990s).
Photo Industry Distribution Information Systemization Council [Kyogikai], ''Comprehensive Manual for Photo Distribution Industry Distribution Information Systemization,'' 1996 (and 1989, 1990, 1991, and 1992 versions).

Other related measures, including guidelines.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

A person requesting that information or advice contained in a comment submitted by that person, other than business confidential information, be treated as confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155)—

(1) Must so designate that information or advice;
(2) Must clearly mark the material as ''CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy; and
(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA, USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington DC 20508. The public file will include a listing of any comments made to USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding; the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–9, ''U.S.-Japan: Film and Paper''), may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Jennifer Hillman,

General Counsel.

[FR Doc. 96–25796 Filed 10–7–96; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–96–49]

Petitions for Exemption; Summary of Petition Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before October 15, 1996.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Fred Haynes (202) 267–3939 or Marisa Mullen (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 2, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions For Exemption

Docket No.: 28673.

Petitioner: EAA Aviation Foundation, Inc., Experimental Aircraft Association, Inc.

Sections of the FAR Affected: 14 CFR 119.5(g) and 119.21(a).

Description of Relief Sought: To permit the EAA Aviation Foundation to use its B–17 aircraft, which is certified as a limited category aircraft, to provide flight experiences to members of EAA who have also become members of the B–17 Historical Society through a donation to the Foundation. A summary of this petition requesting relief from 14 CFR 91.315 was previously published for comment on September 10, 1996, 61FR 47779. The FAA has determined that the petitioner requires relief from

14 CFR 119.5(g) and 119.21(a) which would have the affect of exempting the petitioner from 14 CFR Part 121. Because the required relief is much broader than originally noticed, the pubic is being afforded the opportunity to comment on the expended petition.

Docket No.: 38660.

Petitioner: Collings Foundation.

Sections of the FAR Affected: 14 CFR 119.5(g) and 119.21(a).

Description of Relief Sought: To permit the Collings Foundation to conduct the carriage of passengers on local flights in their limited category B–17 and experimental category B–24 aircraft in support of Collings Foundation fund raising efforts. A summary of this petition requesting relief from 14 CFR 91.315 and 91.319 was previously published for comment on August 26, 1996, 61FR 43808. The FAA has determined that the petitioner requires relief from 14 CFR 119.5(g) and 119.21(a) which would have the affect of exempting the petitioner from 14 CFR Part 121. Because the required relief is much broader than originally noticed, the public is being afforded the opportunity to comment on the expanded petition.

[FR Doc. 96–25779 Filed 10–7–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Federal Transit Administration

[FTA/FHWA Docket No. 96–1837]

Notice of Request for the Extension of Currently Approved Information Collections

AGENCIES: Federal Transit Administration (FTA), Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the FTA and FHWA to request the Office of Management and Budget (OMB) to extend the following currently approved information collection: Metropolitan Planning and Statewide Planning.

DATES: Comments must be submitted before December 9, 1996.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Verchinski, FTA, (202) 366–1626 or Mr. Sheldon Edner, FHWA, (202) 366–4066.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA and the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB reinstatement of this information collection.

Title: Metropolitan Planning and Statewide Planning (*OMB Number: 2132–0529*)

Background: The FTA and FHWA jointly carry out the Federal mandate to improve urban and rural transportation. 49 U.S.C. 5303 and 23 U.S.C. 134 and 135 require metropolitan planning organizations (MPOs) and States to develop transportation plans and programs. The information collection activities involved in developing the Unified Planning Work Program (UPWP), the Metropolitan Transportation Plan, the Statewide Transportation Plan, the Transportation Improvement Program (TIP), and the Statewide Transportation Improvement Program (STIP) are necessary to identify and evaluate the transportation issues and needs in each urbanized area and throughout every State. These products of the transportation planning process are essential elements in the reasonable planning and programming of federally-funded transportation investments.

In addition to serving as a management tool for MPOs and State DOTs, the UPWP is used by both FTA and FHWA to monitor the transportation planning activities of those agencies. It is also needed to develop policy on using funds, monitor State and local compliance with national technical emphasis areas, respond to congressional inquiries, prepare congressional testimony, and ensure efficiency in the use and expenditure of Federal funds by determining that planning proposals are both reasonable and cost-effective. 49 U.S.C. 5304 and 23 U.S.C. 134(h) require the development of TIPs for urbanized areas; STIPS are mandated by 23 U.S.C. 135(f). After approval by the Governor and MPO, metropolitan TIPs in attainment areas are to be incorporated directly into the STIP. For nonattainment areas, FTA/FHWA must make a conformity finding on the TIPs before including them into the STIP. The complete STIP is then jointly reviewed and approved or disapproved by FTA and FHWA. These conformity findings and approval actions constitute the determination that States are complying with the requirements of 23 U.S.C. 135 and 49 U.S.C. Section 5303 as a condition of eligibility for Federal-aid funding. Without these documents, approvals and findings, capital and/or operating assistance, cannot be provided.

Respondents: State Departments of Transportation (DOTs) and Metropolitan Planning Organizations (MPOs).

Estimated Annual Burden on Respondents: 607.4 hours for each of the 531 respondents.

Estimated Total Annual Burden: 322,510 hours.

Frequency: Annually and biennially.

Issued: October 3, 1996.

Gordon J. Linton,

FTA Administrator.

George S. Moore, Jr.,

FHWA Associate Administrator for Administration.

[FR Doc. 96–25777 Filed 10–7–96; 8:45 am]

BILLING CODE 4910–57–U

Federal Transit Administration

Environmental Impact Statement on the Central Florida Light Rail Transit System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA), the Florida Department of Transportation, and the Central Florida Regional Transportation Authority (CFRTA), locally known as LYNX intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on the proposed light rail transit project in Osceola, Orange, and Seminole Counties, Florida.

The EIS will evaluate the following alternatives: a no-build alternative, a Transportation System Management alternative consisting of low to medium cost improvements to the facilities and operations of LYNX in addition to the

currently planned transit improvements in the corridor, and the light rail transit alignment (including line, station locations and support facilities). Scoping will be accomplished through correspondence with interested persons, organizations, and Federal, State and local agencies, and through public meetings.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the Florida Department of Transportation by November 22, 1996. See **ADDRESSES** below. Scoping Meetings: A joint FTA, Florida Department of Transportation and Central Florida Regional Transportation Authority public scoping meeting will be held on Wednesday, November 6, l996 at 1:30 p.m. at the LYNX Board Room located at 225 East Robinson Street, Suite 300, Orlando, FL. See **ADDRESSES** below.

ADDRESSES: Written comments on the project scope should be sent to Mr. Harold Webb, Florida Department of Transportation, District Five, 719 South Woodland Boulevard, DeLand, Florida 32720. Scoping meetings will be held at the following location: LYNX Board Room, 225 East Robinson Street, Suite 300, Orlando, Florida.

See **DATES** above.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Jensen, Acting Deputy Regional Administrator, Federal Transit Administration, Region IV, (404) 347–3948.

SUPPLEMENTARY INFORMATION:

1. Scoping

The FTA, FDOT, and LYNX invite written comments for a period of 45 days after publication of this notice (see **DATES** and **ADDRESSES** above). During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated, and suggesting alternatives that are less costly or less environmental impacts to be evaluated, and suggesting alternatives that are less costly or less environmentally damaging which achieve similar objectives. Comments should focus on the issues and alternatives for analysis, and not on a preference for a particular alternative. Individual preference for a particular alternative should be communicated during the comment period for the Draft EIS.

If you wish to be placed on the mailing list to receive further information as the project continues, contact Mr. Harold Webb at the Florida Department of Transportation, District Five. (see **ADDRESSES** above).

II. Description of Study Area and Project Need

The proposed project consists of an approximately 48.3 mile total light rail transit system. The minimum operating segment consist of 20–24 miles linking Osceola County's Celebration development in the south, through Orlando and central Orange County, to the vicinity of Sanford and the Volusia and Seminole County lines to the north. The new light rail transit alignment will be located either within the Interstate 4 right-of-way or in adjacent to the CSX rail corridor and surface streets or a combination of the alignment locations. The light rail transit alignment provides the opportunity to connect four of the five intermodal stations identified in the Regional Consensus Plan and Resource Document; the Osceola County Celebration Activity Center; the International Drive Grand Terminal Station; the Downtown Orlando Intermodal Facility, and the Sanford/ Seminole County Transportation Center.

Interstate 4 is generally considered to be the spine of Central Florida's transportation system, carrying the greatest number of people and vehicles of any transportation facility in the region and serving many of the region's primary activity centers. On most of its sections Interstate 4 has evolved from being a highway primarily intended to serve long distance travelers to one which serves many shorter trips. Congestion and delays on Interstate 4 and along the parallel arterial highways are now considered to be the major transportation problem facing this rapidly growing region. With the prospect of continued and accelerated growth in population and tourism in Central Florida, travel conditions will continue to deteriorate at an increasing rate.

In response to this need, FDOT, in conjunction with LYNX, has completed a Major Investment Study (MIS) for the Interstate 4 corridor. The results of the MIS study and corresponding Interstate 4 Multi-Modal Master Plan resulted in a recommended design concept and scope consisting of six general use lanes, two special use lanes, and a light rail transit system to provide the required mobility in the Interstate 4 corridor.

III. Alternatives

The alternatives proposed for evaluation include: (1) No-action, which involves no change to transportation services or facilities in the corridor beyond already committed projects,

(2) a transportation system management alternative, which will be used for cost-effectiveness comparisons, consists of low-to-medium cost improvements to the facilities and operations of LYNX in addition to the currently planned transit improvements in the corridor,

(3) new light rail transit alignment located either within the Interstate 4 right-of-way or in or adjacent to the CSX rail corridor and select surface streets or combinations of the alignment locations.

IV. Probable Effects

FTA and the Florida Department of Transportation and LYNX will evaluate all significant environmental, social, and economic impacts of the alternatives analyzed in the EIS. Primary environmental issues include: neighborhood protection, aesthetics, bicycle facilities, trails, recreational greenways, alternative modes of transportation, lake protection, hydrology and stormwater management, archaeological and historic resources, ecological and riverine greenways, wildlife corridors, and rare habitat and listed species. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, visual impacts, impacts on cultural resources, and noise and vibration impacts. Impacts on natural areas, rare and endangered species, air and water quality, groundwater and potentially contaminated sites will also be covered. The impacts will be evaluated both for the construction period and for the long-term period of operation. Measures to mitigate any significant adverse impacts will be developed.

Issued on: October 3, 1996.

Susan E. Schruth,

Regional Administrator.

[FR Doc. 96–25780 Filed 10–07–96; 8:45 am]

BILLING CODE 4910–57–P

Surface Transportation Board [1]

[STB Finance Docket No. 33119]

Chicago SouthShore & South Bend Railroad Co.—Acquisition Exemption—Kensington and Eastern Railroad Co.

Chicago SouthShore & South Bend Railroad Co. (CSS), a Class III rail

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10902.

carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire: (1) Approximately 6.2 miles of double track rail line from Kensington & Eastern Railroad Co. (K&E), extending from milepost 0.0, at 115th Street in Chicago, IL, to milepost 6.2, at the Illinois-Indiana State Line in Burnham, IL, opposite Hammond, IN; and (2) approximately 387 feet of contiguous line from Illinois Central Railroad Co., K&E's parent company, running from K&E to the point of connection with Chicago Rail Link just north of 130th Street (collectively herein referred to as the Subject Line).

The transaction was expected to be consummated on or after September 30, 1996.

CSS will continue to operate freight service and the Northern Indiana Commuter Transportation District will continue to operate passenger service over the lines.

As part of CSS's acquisition, CSS has granted to IC incidental local and bridge trackage rights to provide freight service to the industries and future occupants of facilities currently located on the Subject Line, and to obtain access to serve all current and future industries located within the Illinois International Port District. These trackage rights were existing rights which CSS agreed could be reserved by K&E on behalf of IC, as part of its conveyance of interests to CSS, and by IC on its own behalf.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33119, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on: Jo A. DeRoche, Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005–4797. Telephone: (202) 628–2000.

Decided: October 1, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–25746 Filed 10–7–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Docket No. AB–361 (Sub-No. 2X)]

Michigan Shore Railroad, Inc.—Abandonment Exemption—In Muskegon, Muskegon County, MI

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the requirements of 49 U.S.C. 10903 the abandonment by Michigan Shore Railroad, Inc., of a 3.21-mile rail line extending from milepost 93.59, at Getty Street and Laketon Avenue in Muskegon, MI, to the end of the track at milepost 90.38, near Dangl Road and Laketon Avenue near Muskegon, all in Muskegon County, MI, subject to standard labor protective conditions.

DATES: The exemption will be effective November 7, 1996 unless stayed or a statement of intend to file an offer of financial assistance (OFA) is filed. Statements of intent to file an OAF [2] under 49 CFR 1152.27(c)(2) and requests for a notice of interim trail use/rail banking under 49 CFR 1152.29 must be filed by October 18, 1996; petitions to stay must be filed by October 23, 1996; requests for a public use condition under 49 CFR 1152.28 must be filed by October 28, 1996; and petitions to reopen must be filed by November 4, 1996.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Docket No. AB–361 (Sub.-No. 2X) must be filed with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423; a copy of all pleadings must be served on petitioner's representative: Michael W. Blaszak, Esq., 211 South Leitch Avenue, LaGrange, IL 60525–2162.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660 (TDD for the hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

Decided: September 23, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owens.

Vernon A. Williams,

Secretary.

[FR Doc. 96–25745 Filed 10–7–96; 8:45 am]

BILLING CODE 4915–00–P–M

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, which was enacted on December 28, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction under 49 U.S.C. 10903.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[STB Finance Docket No. 33129]

Southern Pacific Transportation Company—Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant overhead trackage rights to Southern Pacific Transportation Company (SP) over three rail segments that total approximately 65.60 miles of contiguous rail lines located in Los Angeles and the vicinity of Los Angeles, CA, as follows: (1) The Los Angeles Subdivision between Los Angeles (M.P. 2.88) and Bartola (M.P. 11.44); (2) the Los Angeles Subdivision between City of Industry (M.P. 18.44) and Riverside (M.P. 56.6); and (3) the San Pedro Branch in Los Angeles (M.P. 2.83 to M.P. 21.71). The trackage rights were to become effective on or after September 26, 1996.[2]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33129, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW.,

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

[2] Under 49 CFR 1180.4(g)(1), a notice of exemption is effective 7 days after it is filed. Although applicants indicated that the proposed transaction would be consummated on or after September 25, 1996, because the notice was filed on September 19, 1996, the proposed transaction could not be consummated before the September 26, 1996 effective date.

Washington, DC 20423 and served on: James V. Dolan, Vice President-Law, 1416 Dodge Street, #830, Omaha, NE 68179.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Decided: October 1, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–25747 Filed 10–7–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Finance Docket No. 33128]

Union Pacific Railroad Company—Trackage Rights Exemption—Southern Pacific Transportation Company

Southern Pacific Transportation Company (SP) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over eight rail segments that total approximately 131.6 miles of contiguous rail lines located in Los Angeles and the vicinity of Los Angeles, CA, as follows: (1) The West Line between Los Angeles (M.P. 482.8) and Colton (M.P. 539.0); (2) the Bakersfield Line between Dike (M.P. 481.0) and West Colton (M.P. 494.2); (3) the Amoco Line in Los Angeles (M.P. 484.9 to M.P. 498.3); (4) the San Pedro Branch in Los Angeles (M.P. 498.3 to 501.4); (5) the Vernon Line in Los Angeles (M.P. 489.1 to M.P. 496.2); (6) the Walker Line between Los Angeles (M.P. 487.3) and Bartola (M.P. 504.9); (7) the Patata Line between Los Angeles (M.P. 489.0) and Los Nietos (M.P. 500.7); and (8) the LaHabra Branch between Los Nietos (M.P. 496.5) and LaHabra (M.P. 505.8). The trackage rights were to become effective on or after September 26, 1996.[2]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33128, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423 and served on: William G. Barr, Assistant General Solicitor, 1416 Dodge Street, #830, Omaha, NE 68179.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Decided: October 1, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–25748 Filed 10–7–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain
Iraq
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yeman, Republic of

Dated: September 30, 1996.

Joseph Guttentag,

International Tax Counsel (Tax Policy).

[FR Doc. 96–25713 Filed 10–7–96; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Meeting of the Advisory Board for Cuba Broadcasting

The Advisory Board for Cuba Broadcasting will conduct a meeting at The Biltmore Hotel, 1200 Anastasia Avenue, Coral Gables, Florida on Monday, October 7, 1996, at 11:30 a.m.

The intended agenda is listed below.

Advisory Board for Cuba Broadcasting Meeting

Monday, October 7, 1996

Agenda

Part One—Closed to the Public

Technical Operations Update

Part Two—Open to the Public

I. Relocation of Radio and T.V. Marti to South Florida
II. Investigations of Radio and T.V. Marti Update
  A. Puerto Rico Investigation
  B. General Accounting Office Investigations
    1. Completed Investigation
    2. New Investigation
  C. Department of State Office of Inspector General
  D. Arbitration
  E. Office of Program Review
III. Radio and T.V. Marti Update
IV. Office of Program Evaluation
V. Congressional Update
VI. Office of Cuba Broadcasting Within the International Bureau of Broadcasting Organizational Chart
VII. Public Testimony

Members of the public interested in attending the meeting should contact Ms. Angela R. Washington, at the Advisory Board Office. Ms. Washington can be reached at (305) 994–1720.

Due to scheduling problems and the need to move the project forward, this announcement will appear for less than 15 days.

Determination to Close a Portion of the Advisory Board Meeting of October 7, 1996

Based on information provided to me by the Advisory Board for Cuba

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[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

[2] Under 49 CFR 1180.4(g)(1), a notice of exemption is effective 7 days after it is filed. Although applicants indicated that the proposed transaction would be consummated on or after September 25, 1996, because the notice was filed on September 19, 1996, the proposed transaction could not be consummated before the September 26, 1996 effective date.

Broadcasting, I hereby determine that the 11:30 a.m. to 12:00 p.m. portion of this meeting should be closed to the public.

The Advisory Board has requested that part one of the October 7, 1996, meeting be closed to the public. Part one will involve information the premature disclosure of which would likely frustrate implementation of a proposed Agency action. Closing such deliberations to the public is justified by the Government in the Sunshine Act under 5 U.S.C. 522b(c)(9)(B).

Part one of the agenda consists of a discussion of technical matters, which include TV Marti transmissions, frequencies, alternate channels and new technologies for Radio Marti.

Dated: October 2, 1996.

Joseph Duffey,

Director, United States Information Agency.

[FR Doc. 96–25750 Filed 10–7–96; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register
Vol. 61, No. 196
Tuesday, October 8, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–1–118–000]

Arkansas Western Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 96–24384 on page 50006 in the issue of Tuesday, September 24, 1996, in the second column, the Docket number should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Program Announcement and Proposed Review Criteria and Indicators for Grants for Primary Care Training for Fiscal Year 1997

Correction

In notice document 96–25429 beginning on page 52034 in the issue of Friday, October 4, 1996, make the following correction:

On page 52037, in the first column, in the second paragraph, in lines two through four, ''(Insert date 30 days from date of publication in the Federal Register)'' should read ''November 4, 1996''.

BILLING CODE 1505–01–D

Federal Register

Tuesday
October 8, 1996

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 8, et al.

Federal Acquisition Regulation; ADP/ Telecommunications Federal Supply Schedules; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 13, 38, and 51

[FAR Case 96–602]

RIN 9000–AH29

Federal Acquisition Regulation; ADP/ Telecommunications Federal Supply Schedules

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) with respect to GSA''s Federal Supply Schedules program. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Comments should be submitted on or before December 9, 1996 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets, NW, Room 4037, Washington, DC 20405.

Please cite FAR case 96–602 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 96–602.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the FAR to reflect the reassignment of Federal Supply Schedule contracts for ADP/ Telecommunications to GSA''s Federal Supply Service; to add new coverage on the GSA Advantage! program; to clarify when ordering offices should seek price reductions; and to implement changes pertaining to procedures when placing orders above the maximum order.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely updates and clarifies guidance for Government agencies regarding use of the GSA Federal Supply Schedule program. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 96–602), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose any additional reporting or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 8, 13, 38, and 51

Government procurement.

Dated: October 2, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 8, 13, 38, and 51 be amended as set forth below:

1. The authority citation for 48 CFR Parts 8, 13, 38, and 51 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. 2301 to 2331; and 42 U.S.C. 2473(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 8.401 is revised to read as follows:

8.401 General.

(a) The Federal Supply Schedule program, directed and managed by the General Services Administration (GSA), provides Federal agencies with a simplified process for obtaining commonly used supplies and services at prices associated with volume buying. Indefinite delivery contracts (including requirements contracts) are established with commercial firms to provide supplies and services at stated prices for given periods of time. Similar systems of schedule-type contracting are used for military items managed by the Department of Defense. These systems are not included in the Federal Supply Schedule program covered by this subpart.

(b) The GSA schedule contracting office issues publications, titled Federal Supply Schedules, containing the information necessary for placing delivery orders with schedule contractors. Ordering offices issue delivery orders directly to the schedule contractors for the required supplies and services. Ordering offices may request copies of schedules by completing GSA Form 457, FSS Publications Mailing List Application, and mailing it to the GSA Centralized Mailing List Service (7CAFL), P.O. Box 6477, Fort Worth, Texas, 76115. Copies of GSA Form 457 also may be obtained from the above address.

(c) GSA offers an on-line shopping service called ''GSA Advantage!'' that enables ordering offices to search product specific information (i.e., NSN, part number, common name), review delivery options, place orders directly with contractors (or ask GSA to place orders on the agency's behalf), and pay contractors for orders using the Governmentwide commercial purchase card (or pay GSA). Ordering offices may access the ''GSA Advantage!'' shopping service by connecting to Internet and using a web browser to connect to the GSA Home Page (http://www.gsa.gov, or http://www.fss.gsa.gov). For more information or assistance, contact GSA at Internet e-mail address: gsa.advantage@gsa.gov.

3. Section 8.404 is amended by revising paragraphs (a) and (b), and the heading of paragraph (c) to read as follows:

8.404 Using schedules.

(a) *General.* When agency requirements are to be satisfied through the use of Federal Supply Schedules as set forth in this subpart 8.4, the policies and procedures of FAR part 13 do not apply. Orders placed, pursuant to a Multiple Award Schedule (MAS), using the procedures in this subpart 8.4 are considered to be issued pursuant to full and open competition (see 6.102(d)(3)). Therefore, when placing orders under Federal Supply Schedules, ordering offices need not seek further competition, synopsize the requirement, make a separate determination of fair and reasonable pricing, or consider small business set-asides in accordance with subpart 19.5.

(b) *Ordering procedures for optional use schedules*—(1) *Orders at or below the micro-purchase threshold.* Ordering offices can place orders at or below the micro-purchase threshold with any

Federal Supply Schedule contractor. GSA has already determined the prices of items under these contracts to be fair and reasonable.

(2) *Orders exceeding the micro-purchase threshold and not exceeding the maximum order threshold.* Before placing an order, ordering offices should consider reasonably available information about products offered under Multiple Award Schedule (MAS) contracts by using the ''GSA Advantage!'' on-line shopping service, or if an automated information system is not available, by reviewing the catalog, including price lists, of at least 3 schedule contractors.

(3) *Orders exceeding the maximum order threshold.* Each schedule contract has an established maximum order threshold. This threshold represents the point where it is advantageous for the ordering office to seek a price reduction. Before placing an order that exceeds the maximum order threshold, ordering offices shall follow the procedures in paragraph (b)(2) of this section; and—

(i) Review the catalogs, including price lists, of additional schedule contractors, if appropriate, considering the dollar value of the proposed order; and

(ii) Seek a further reduction in price and/or more favorable delivery terms before selecting the contractor to receive the order.

(4) *Blanket purchase agreements (BPAs).* All schedule contracts contain BPA provisions. Ordering offices are encouraged to use BPAs to establish accounts with contractors to fill recurring requirements. BPAs should address the frequency of ordering and invoicing, discounts, delivery locations and times. BPAs may be used for any size orders.

(5) *Price reductions.* In addition to the circumstances outlined in paragraph (b)(3) of this section, there may be instances where ordering offices will find it advantageous to request a price reduction. For example, when the ordering office finds a schedule product elsewhere at a lower price or when a blanket purchase agreement (BPA) is being established to fill recurring requirements, requesting a price reduction could be advantageous. The potential volume of orders under these agreements, regardless of the size of the individual order, may offer the ordering office the opportunity to secure higher discounts. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual agency for a specific order or under a BPA.

(6) *Best value selection for orders exceeding the micro-purchase threshold.* Orders should be placed with the schedule contractor that can provide an item which represents the best value. In selecting the item representing the best value, the ordering office may consider—

(i) Special features of one item which are required in effective program performance and which are not provided by comparable items;

(ii) Trade in considerations;

(iii) Probable life of the item selected as compared with that of a comparable item;

(iv) Warranty considerations;

(v) Maintenance availability;

(vi) Past performance; and

(vii) Environmental and energy efficiency considerations.

(7) *Small business.* For orders exceeding the micro-purchase threshold, ordering offices should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

(8) *Documentation.* Orders should be documented, at a minimum, by identifying the contractor the item was purchased from, the item purchased, and the amount paid.

(c) *Ordering procedures for mandatory use schedules.* * * *

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

4. Section 13.202 is amended by revising paragraph (c)(3) to read as follows:

13.202 Establishment of blanket purchase agreements (BPA's).

* * * * *

(c) * * *

(3) Federal Supply Schedule contractors if not inconsistent with the terms of the applicable schedule or other contract.

* * * * *

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

5. Section 38.000 is revised to read as follows:

38.000 Scope of part.

This part prescribes policies and procedures for contracting for supplies and services under the Federal Supply Schedule program, which is directed and managed by the General Services Administration (see subpart 8.4, Federal Supply Schedules, for additional information). The Department of Defense uses a similar system of schedule contracting for military items that are not a part of the Federal Supply Schedule program.

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

51.103 [Amended]

6. Section 51.103 is amended by removing paragraph (c) and redesignating paragraph (d) as (c).

[FR Doc. 96–25721 Filed 10–7–96; 8:45 am]

BILLING CODE 6820–EP–U

Federal Register

Tuesday
October 8, 1996

Part III

Environmental Protection Agency

40 CFR Part 51

Air Quality: Volatile Organic Compounds Definition Revision; Exclusion of HFC 43–10mee, HCFC 225ca, and cb; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–5466–9]

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of HFC 43–10mee and HCFC 225ca and cb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises EPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (Act) and for the Federal implementation plan (FIP) for the Chicago ozone nonattainment area. This action adds HFC 43–10mee and HCFC 225ca and cb to the list of compounds excluded from the definition of VOC on the basis that these compounds have negligible contribution to tropospheric ozone formation. These compounds are solvents which could be used in electronics and precision cleaning.

EFFECTIVE DATE: This rule is effective November 7, 1996.

ADDRESSES: The EPA has established a public docket for this action, A–95–37, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center, (6102), 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Johnson, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (MD–15), Research Triangle Park, NC 27711, phone (919) 541–5245.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities potentially regulated by this action are those which use and emit VOC's and States which have programs to control VOC emissions.

Category	Examples of regulated entities
Industry	Industries that do solvent cleaning, e.g. electronics or precision cleaning.
States	States which have regulations to control volatile organic compounds.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by State regulation initiated pursuant to this action. States may use this revised definition of VOC in promulgating new or revising existing reasonably available control technology requirements for stationary sources. If you have further questions regarding the applicability of this action to a particular entity, you may consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice or contact your State or local air pollution control agency.

I. Background

Petitions have been received from two organizations asking for certain compounds to be added to the list of compounds which are considered to be negligibly reactive in the definition of VOC at 40 CFR 51.100(s). On December 12, 1994, Asahi Glass America, Inc., submitted a petition for HCFC 225ca and cb isomers. These compounds are chemically named 3,3-dichloro-1,1,1,2,2-pentafluoropropane (CAS number 422–56–0) and 1,3-dichloro-1,1,2,2,3-pentafluoropropane (CAS number 507–55–1), respectively. On March 13, 1995, the E.I. du Pont de Nemours and Company submitted a petition for the compound HFC 43–10mee. This compound has the chemical name 1,1,1,2,3,4,4,5,5,5-decafluoropentane (CAS number 138495–42–8).

In support of their petitions, these organizations supplied information on the photochemical reactivity of the individual compounds. This information consisted mainly of the rate constant for the reaction of the compound with the hydroxyl (OH) radical. This rate constant (k_{OH} value) is commonly used as one measure of the photochemical reactivity of compounds. The petitioners compared the rate constants with that of other compounds which have already been listed as photochemically, negligibly reactive (e.g., ethane which is the compound with the highest k_{OH} value that is currently regarded as negligibly reactive). Reported k_{OH} rate constants for ethane and the compounds for which petitions were submitted are listed in Table 1.

TABLE 1.—REACTION RATE CONSTANTS WITH OH RADICAL REPORTED RATE CONSTANT AT 25°C

Compound	cm^3/molecule/sec
Ethane	2.4×10^{-13}
HCFC–225ca	2.5×10^{-14}
HCFC–225cb	8.6×10^{-15}
HFC 43–10mee	3.87×10^{-15}

The scientific information which the petitioners have submitted in support of their petitions has been added to the docket for this rulemaking. This information includes references for the journal articles where the rate constant values are published.

In regard to the petition for HCFC 225ca and HCFC 225cb, existing data support that the reactivities of these compounds with respect to reaction with OH radicals in the atmosphere are considerably lower than that of ethane. This would indicate that these compounds are less reactive than ethane which is already classified as negligibly reactive. Similarly, for HFC 43–10mee, the rate constant of reaction with the OH radical is considerably less than that for ethane.

In each of the above petitions, the petitioners did not submit reactivity data with respect to other VOC loss reactions (such as reaction with O-atoms, nitrogen trioxide (NO_3)-radicals, and ozone (O_3), and for photolysis). However, there is ample evidence in the literature that halogenated paraffinic VOC, such as these compounds, do not participate in such reactions significantly.

II. Comments on the Proposal and EPA Responses

Based on a review of the scientific material submitted by the petitioners, EPA published a notice in the Federal Register on May 1, 1996 (61 FR 19231) which proposed to revise EPA's definition of VOC to add HFC 43–10mee and HCFC 225ca and cb to the list of compounds which are considered to be negligibly photochemically reactive. In the proposal, EPA summarized the technical basis for its preliminary decision to add these compounds to this list. That notice asked for comments from the public on the proposal and provided a 30-day comment period which ended May 31, 1996. In accordance with section 307(d) of the Act, today's action is accompanied by a response to the significant comments, criticisms, and new data submitted in written or oral presentations during the public comment period. During the comment period, written comments

were received from one company in response to EPA's May 1, 1996 proposal. This comment letter supported the proposed action. A copy of that comment letter is located in the docket (A–95–37) for this action.

In the proposal for today's action, EPA indicated that interested persons could request that EPA hold a public hearing on the proposed action (see section 307(d)(5)(ii) of the Act). During the comment period, no one requested a public hearing, therefore none was held.

III. Final Action

Based on its review of the material in Docket No. A–95–37, the EPA hereby amends its definition of VOC at 40 CFR 51.100(s) to exclude HCFC 43–10mee, HCFC 225ca and HCFC 225cb as VOC for ozone SIP and ozone control purposes. The revised definition also applies in the Chicago ozone nonattainment area pursuant to the 40 CFR 52.741(a)(3) definition of volatile organic material or VOC. States are not obligated to exclude from control as a VOC those compounds that EPA has found to be negligibly reactive. However, States should not include these compounds in their VOC emissions inventories for determining reasonable further progress under the Act (e.g., section 182(b)(1)) and may not take credit for controlling these compounds in their ozone control strategy.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file for all information submitted or otherwise considered by EPA in the development of this rulemaking. The principle purposes of the docket are to allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A)).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. The order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not ''significant'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

C. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any 1 year. Section 204 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this rule is estimated to result in the expenditure by State, local and tribal governments or the private sector of less than $100 million in any 1 year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

D. Regulatory Flexibility Act

For proposed and final rules, the Regulatory Flexibility Act of 1980 requires the Agency to perform a regulatory flexibility analysis, identifying the economic impact of the rule on small entities. 5 U.S.C. 601 et. seq. In the alternative, if the Agency determines that the rule will not have a significant economic impact on a substantial number of small entities, the Agency can make a certification to that effect. Because this rule relieves a restriction, it will not impose and any adverse economic impact on small entities. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it relaxes current regulatory requirements rather than imposing new ones.

E. Paperwork Reduction Act

This rule does not change any information collection requirements subject to OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 27, 1996.

Carol M. Browner,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7641q.

2. Section 51.100 is amended by revising paragraph (s) introductory text and paragraph (s)(1) to read as follows:

51.100 Definitions.

* * * * *

(s) *Volatile organic compounds (VOC)* means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (HCFC–22); trifluoromethane (HFC–23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC–123); 1,1,1,2-tetrafluoroethane (HFC–134a); 1,1-dichloro 1-fluoroethane (HCFC–141b); 1-chloro 1,1-difluoroethane (HCFC–142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2-tetrafluoroethane (HFC–134); 1,1,1-trifluoroethane (HFC–143a); 1,1-difluoroethane (HFC–152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC–225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC–225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43–10mee); and perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes,

(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations,

(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations, and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

* * * * *

[FR Doc. 96–25787 Filed 10–7–96; 8:45 am]

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Federal Register

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October 8, 1996

Part IV

Environmental Protection Agency

40 CFR Part 50

National Ambient Air Quality Standards for Nitrogen Dioxide: Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–5632–1]

RIN 2060–AC06

National Ambient Air Quality Standards for Nitrogen Dioxide: Final Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final decision.

SUMMARY: The level for both the existing primary and secondary national ambient air quality standards (NAAQS) for nitrogen dioxide (NO_2) is 0.053 parts per million (ppm) (100 micrograms per meter cubed ($\mu g/m^3$)) annual arithmetic average. As required under the provisions of sections 108 and 109 of the Clean Air Act (Act), the EPA has conducted a review of the criteria upon which the existing NAAQS for NO_2 are based. On October 2, 1995, the Administrator announced her proposed decision not to revise either the primary or secondary NAAQS for NO_2 based on this review (60 FR 52874; October 11, 1995). Today's action provides the Administrator's final determination, after careful evaluation of the comments received on the October 1995 proposal, that revisions to neither the primary nor the secondary NAAQS for NO_2 are appropriate at this time.

ADDRESSES: A docket containing information relating to the EPA's review of the NAAQS for NO_2 (Docket No. A–93–06) is available for public inspection at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (Mail Code 6102), Central Docket Section, South Conference Center, Room M–1500, 401 M Street, SW., Washington, DC 20460, telephone (202) 260–7548. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays. A reasonable fee may be charged for copying. The information in the docket constitutes the complete basis for this final decision. For availability of related information see the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Ms. Chebryll C. Edwards, U.S. EPA, Office of Air Quality Planning and Standards (OAQPS), Air Quality Strategies and Standards Division (MD–15), Research Triangle Park, NC 27711, telephone (919) 541–5428.

SUPPLEMENTARY INFORMATION:

Availability of Related Information. The revised criteria document, ''Air Quality Criteria for Oxides of Nitrogen'' (three volumes, EPA–600/8–91/049aF–cF, August 1993: Volume I, NTIS #PB95124533, $52.00; Volume II, NTIS #PB95124525, $77.00; Volume III, NTIS #PB95124517, $77.00), and the final revised OAQPS Staff Paper, ''Review of the National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of Scientific and Technical Information,'' (EPA–452/R–95–005, September 1995; NTIS #PB95271573, $27.00) are available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, or call 1–800–553–6847 (a handling charge will be added to each order). Other documents generated in connection with this standard review, such as air quality analyses and relevant scientific literature, are available in Docket No. A–93–06.

Affected entities. Entities potentially affected by this action are those which emit (or manufacture products which emit) NO_2 or other oxides of nitrogen. Affected categories and entities include:

Category	Examples of affected entities
Industry	Electric utilities, automobile manufacturers, mining and mineral processing companies.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in title 40 of the Code of Federal Regulations, part 50. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The contents of this action are listed below:

I. Background

A. Legislative Requirements Affecting This Decision

1. The standards. Two sections of the Act govern the establishment and revision of NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify pollutants which ''may reasonably be anticipated to endanger public health and welfare'' and to issue air quality criteria for them. These air quality criteria are to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air * * *.''

Section 109 (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' NAAQS for pollutants identified under section 108. Section 109(b)(1) defines a primary standard as one ''the attainment and maintenance of which, in the judgment of the Administrator, based on the criteria and allowing an adequate margin of safety, (is) requisite to protect the public health.'' For a discussion of the margin of safety requirement, see the October 11, 1995 proposal notice (60 FR 52875). A secondary standard, as defined in section 109(b)(2), must ''specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on (the) criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of (the) pollutant in the ambient air.'' Welfare effects, as defined in section 302(h) (42 U.S.C. 7602(h)), include, but are not limited to, ''effects on soil, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

Section 109(d)(1) of the Act requires periodic review and, if appropriate, revision of existing criteria and standards. The process by which EPA has reviewed the existing air quality

criteria and standards for NO_2 is described later in this notice.

2. Related control requirements. States are primarily responsible for ensuring attainment and maintenance of ambient air quality standards. The October 11, 1995 proposal notice (60 FR 52876) provides a detailed discussion of the requirements States must fulfill to ensure adequate implementation of control programs directed toward air emission sources.

B. Nitrogen Oxides and the Existing Standards for NO_2

Nitrogen dioxide is a brownish, highly reactive gas which is formed in the ambient air through the oxidation of nitric oxide (NO). Nitrogen oxides (NO_X), the term used to describe the sum of NO, NO_2 and other oxides of nitrogen, play a major role in the formation of ozone in the atmosphere through a complex series of reactions with volatile organic compounds. A variety of NO_X compounds and their transformation products occur both naturally and as a result of human activities. Anthropogenic sources of NO_X emissions account for a large majority of all nitrogen inputs to the environment. The major sources of anthropogenic NO_X emissions are mobile sources and electric utilities. Ammonia and other nitrogen compounds produced naturally are important in the cycling of nitrogen through the ecosystem.

The origins, concentrations, and effects of NO_2 are discussed in detail in the ''Review of National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of Scientific and Technical Information,'' (Staff Paper or SP) (U.S. EPA, 1995a) and in the revised document, ''Air Quality Criteria for Oxides of Nitrogen,'' (Criteria Document or CD) (U.S. EPA, 1993). At elevated concentrations, NO_2 can adversely affect human health, vegetation, materials, and visibility. Nitrogen oxide compounds also contribute to increased rates of acidic deposition. Typical peak annual average ambient concentrations of NO_2 have historically ranged from 0.007 to 0.061 ppm (U.S. EPA, 1993). The highest hourly NO_2 average concentrations range from 0.04 to 0.54 ppm (U.S. EPA, 1993). Currently, all areas of the U.S., including Los Angeles (which is the only area to record violations in the last decade), are in attainment of the annual NO_2 NAAQS of 0.053 ppm.

On April 30, 1971, EPA promulgated identical primary and secondary NAAQS for NO_2, under section 109 of the Act, at 0.053 ppm annual average (36 FR 8186). The criteria upon which these initial standards were based were updated in the revised 1982 document, ''Air Quality Criteria for Oxides of Nitrogen'' (U.S. EPA, 1982). On February 23, 1984, the EPA proposed to retain both the annual primary and secondary standards at 0.053 ppm annual average (49 FR 6866). After taking into account public comments, the final decision to retain the NAAQS for NO_2 was published by EPA in the Federal Register on June 19, 1985 (50 FR 25532). For a more detailed discussion of the regulatory history and the bases for the existing NAAQS for NO_2, see the October 11, 1995 proposal notice (60 FR 52876).

C. Review of Air Quality Criteria and Standards for Oxides of Nitrogen

On July 22, 1987, in response to requirements of section 109(d) of the Act, the EPA announced that it was undertaking plans to revise the 1982 CD (52 FR 27580). In November 1991, the EPA released the revised CD for public review and comment (56 FR 59285).

The revised CD provides a comprehensive assessment of the available scientific and technical information on health and welfare effects associated with NO_2 and NO_X. The Clean Air Scientific Advisory Committee (CASAC) reviewed the CD at a meeting held on July 1, 1993 and concluded in a closure letter to the Administrator that the CD ''* * * provides a scientifically balanced and defensible summary of current knowledge of the effects of this pollutant and provides an adequate basis for EPA to make a decision as to the appropriate NAAQS for NO_2'' (Wolff, 1993). In the summer of 1995, OAQPS finalized the document entitled, ''Review of the National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of Scientific and Technical Information,'' (U.S. EPA, 1995a). This Staff Paper summarizes and integrates the key studies and scientific evidence contained in the revised CD and identifies the critical elements to be considered in the review of the NO_2 NAAQS.

The Staff Paper received external review at a December 12, 1994 CASAC meeting. The CASAC comments and recommendations were reviewed by EPA staff and incorporated into the final draft of the Staff Paper as appropriate. The CASAC reviewed the final draft of the Staff Paper in June 1995 and responded by written closure letter (Wolff, 1995).

D. Decision Docket

In 1993, the EPA established a docket (Docket No. A–93–06) for this standard review. This docket incorporates by reference a separate docket established for the CD revision (Docket No. ECAO–CD–86–082).

E. Litigation

On July 21, 1993, the Oregon Natural Resources Council and Jan Nelson filed suit under section 304 of the Act to compel the EPA to complete its periodic review of the criteria and standards for NO_2 under section 109(d)(1) of the Act (*Oregon Natural Resources Council* v. *Carol M. Browner*, No. 91–6529–HO (D.Or.)). The U.S. District Court for the District of Oregon entered an order on February 8, 1995 requiring the EPA Administrator to sign a notice to be published in the Federal Register announcing the final decision whether or not to modify the NO_2 NAAQS by October 1, 1996.

II. Summary of Public Comments

The EPA received eight written responses to its proposed decision which was published October 11, 1995 (60 FR 52874). Of the eight submissions, five were provided by individual industrial companies or industrial associations, two were submitted by a State government and an independent agency of that State, and the last by an incorporated association of citizens concerned about environmental issues. Below is a general summary of the public comments. A more detailed summary, along with EPA's responses to each comment, can be found in Docket No. A–93–06, Category IV–D.

Of the five commenters who chose to address the primary (health-based) standard, all concurred with the Administrator's proposed determination that revisions to the existing annual primary standard for NO_2 are not appropriate.

These same commenters also agreed with the Administrator's proposed decision that revisions to the existing annual secondary (welfare-based) standard are not appropriate. The other three commenters expressed concern about EPA's proposed decision not to revise the secondary standard to protect sensitive aquatic resources. Specifically, the State commenters were concerned about nitrogen deposition and its contribution to the acidification of their State's freshwater bodies, particularly Adirondack lakes. The citizen's group is concerned about nitrogen deposition and its contribution to the eutrophication effects being observed in Chesapeake Bay.

III. Rationale for Final Decision

A. The Primary Standard

The rationale for retaining the existing primary NAAQS for NO_2 was presented in some detail in the 1995 proposal notice (60 FR 52874; October 11, 1995) and remains unchanged. At that time, EPA concluded that the existing annual primary standard appears to be both adequate and necessary to protect human health against both long- and short-term NO_2 exposures. The EPA also concluded that retaining the existing annual standard is consistent with the scientific data assessed in the Criteria Document (U.S. EPA, 1993) and Staff Paper (U.S. EPA, 1995a) and with the advice and recommendations of CASAC. After taking into account the public comments, all of which supported the proposed decision on the primary standard, the Administrator again concludes that revisions to the existing annual primary NAAQS for NO_2 are not appropriate at this time.

B. The Secondary Standard

As discussed in detail in the October 11, 1995 proposal notice (60 FR 52880), NO_2 and other nitrogen compounds have been associated with a wide range of effects on public welfare. These effects include the acidification and eutrophication of aquatic systems, potential changes in the composition and competition of some species of vegetation in wetland and terrestrial systems, and visibility impairment.

Commenters were generally supportive of, or were silent with respect to, EPA's conclusions regarding the following: (1) The direct effects of NO_X on vegetation and materials, (2) the direct toxic effects of ammonia deposition to aquatic systems, (3) the effects of nitrogen deposition on terrestrial and wetland systems and soil acidification, and (4) the appropriateness of the secondary standard to protect against visibility impairment. Hence, for the reasons discussed in the October 1995 proposal (60 FR 52880), the Administrator again concludes that it is not appropriate to make any revisions to the existing annual secondary standard for NO_2 with respect to such effects nor is it appropriate to establish a separate secondary NO_2 standard to protect visibility.

The principal issues raised, with respect to the Administrator's proposed decision not to revise the annual secondary standard for NO_2 at this time, were concerning the effects of nitrogen deposition on the acidification of freshwater bodies (particularly Adirondack lakes) and the eutrophication of Chesapeake Bay. The two State commenters and one concerned citizen's group argued that the proposed decision did not comply with section 109(b)(2) of the Act because the existing annual secondary standard for NO_2 does not protect aquatic systems from the adverse effects of NO_X in the ambient air. All other commenters agreed with the Administrator's conclusion that there is not yet enough consistent scientific information to support a revision of the current secondary standard to protect these aquatic systems.

The October 1995 proposal notice (60 FR 52882) discussed the basic scientific evidence available regarding the effects of NO_X on aquatic systems through the processes of eutrophication and acidification. No commenter challenged EPA's interpretation of the available science. Therefore, it is left to the Administrator's judgment as to whether the available evidence provides an adequate basis to set a secondary NAAQS to protect sensitive aquatic resources from the effects associated with nitrogen deposition. The discussions in the next two subsections focus on the key concerns of the commenters and provide some indication of the Administrator's conclusions on particular issues.

1. Key public comments concerning acidification. Two commenters were particularly concerned about the acidification of Adirondack lakes. These commenters pointed out that, in the October 1995 proposal notice, the Administrator did not conclude that ''the existing standard is sufficient to protect aquatic resources from the effects of nitrogen dioxide.'' Therefore, the commenters indicated that the Administrator must take some action to protect such resources. Because of the scientific complexity of nitrogen deposition issues and because the available scientific data assessed in the revised CD (U.S. EPA, 1993) do not provide adequate quantitative evidence on the relationship between deposition rates and environmental impacts, it is difficult for the Administrator to conclude, with any degree of certainty, that the existing secondary NAAQS for NO_2 is not adequate to protect sensitive aquatic systems. The Administrator does agree that the available evidence indicates that nitrogen deposition plays some role in surface water acidification. However, as noted in the proposal notice (60 FR 52882), there are significant uncertainties with regard to the long-term role of nitrogen deposition in surface water acidity and with regard to the quantification of the magnitude and timing of the relationship between atmospheric deposition and the appearance of nitrogen in surface water. Thus, it is difficult to determine what levels of airborne reductions would be necessary to remedy the situation. Therefore, the Administrator concludes that until such evidence is available and incorporated into the air quality criteria for this pollutant, a revision to the secondary standard is not appropriate. All other commenters agreed with this conclusion.

One of the commenters also pointed out that ''unless an acid deposition standard is promulgated, or other regulatory means are adopted that protect the valuable lakes and waters of [the State] and the other northeastern states from the destructive effects of acid rain, EPA must revise the secondary NAAQS for nitrogen dioxide . . ..'' The complexity of the scientific issues involved led the CASAC to conclude that available scientific information assessed in the CD and SP did not provide an adequate basis for standard setting purposes at this time (Wolff, 1995). Furthermore, in its review of the ''Acid Deposition Standard Feasibility Study: Report to Congress'' (U.S. EPA, 1995b), the Acid Deposition Effects Subcommittee of the Ecological Processes and Effects Committee of the EPA's Science Advisory Board concluded that there was not an adequate scientific basis for establishing an acidic deposition standard. The commenter did not provide additional quantitative evidence for the Administrator to consider. Therefore, the Administrator again concludes that the current scientific uncertainties associated with determining the level(s) of an acid deposition standard(s) are significant and current scientific information does not provide an adequate basis for establishing a standard to protect sensitive ecosystems from the effects of acidification.

The commenter recognized EPA's concern that revision of the secondary NAAQS may not be the best mechanism for addressing the effects of acid rain and supported regionally-targeted regulatory efforts. The Agency has initiated efforts to assess appropriate regionally-targeted environmental goals for sensitive systems. For instance, the ''Acid Deposition Standard Feasibility Study: Report to Congress'' (U.S. EPA, 1995b) sets forth a range of regionally-specific goals which were designed to help guide the policy maker when assessing NO_X control strategies and their potential for reducing nitrogen deposition effects. The Agency will continue, as appropriate, to assess the feasibility of developing other regionally-targeted tools and policy

initiatives as additional scientific information emerges from ongoing research.

2. Key public comments concerning eutrophication. The definition of eutrophication and a detailed summary of the potential effects associated with this process can be found in the October 11, 1995 proposal notice (60 FR 52833).

One concerned citizen's group has petitioned EPA to revise the secondary standard for NO_2, or to take such other measures as required by the Act, to control NO_X emissions to the Chesapeake Bay and other coastal waters. However, without better quantitative data, it is difficult to set a national standard which will adequately protect sensitive ecosystems, such as the Chesapeake Bay, from the effects of eutrophication. The commenter did not provide additional quantitative data for the Administrator's review.

Even with limited quantitative information, the Administrator acknowledges the importance of reducing the atmospheric nitrogen loads into the Chesapeake Bay. The EPA has already initiated a number of activities which may have an impact on lessening the effects of atmospheric NO_X deposition on nitrogen levels in the Bay. These measures include the following: (1) Developing a coordinated, multimedia approach for managing nutrient loads to coastal waters; (2) incorporating priorities into EPA's strategic plan to address acid deposition within the Mid-Atlantic region through reduction of nitrogen emissions; and (3) setting numerical goals for the reduction of NO_X emissions (at the regional level) in compliance with programs mandated under titles I and IV of the Act. In addition, an internal EPA work group has recently been formed to develop a strategy for identifying research needs relevant to nitrogen deposition.

Given the complexities associated with estimating the contribution of nitrogen deposition to the eutrophication of estuarine and coastal waters and the limited data currently available, the Administrator again concludes that there is not sufficient quantitative information to establish a national secondary standard to protect sensitive ecosystems from the eutrophication effects caused by nitrogen deposition. The Administrator also concludes that regional control strategies which consider all of the factors contributing to eutrophication are more likely to be effective in mitigating this problem than a national standard which addresses only atmospheric deposition of nitrogen compounds. Additional site-specific investigations (such as the Chesapeake Bay Study; see 60 FR 52883 for details) are needed to ascertain the most effective mitigation strategies. Other commenters agreed with the Administrator's conclusion that a revision to the secondary NAAQS based on concerns over eutrophication is not warranted at this time.

3. Final decision on the secondary standard. For the reasons discussed in the October 11, 1995 proposal notice (60 FR 52874) and after taking into account the public comments as discussed above, the Administrator again concludes, in her judgment, that the available scientific and technical evidence assessed in the Criteria Document (U.S. EPA, 1993) and Staff Paper (U.S. EPA, 1995a) does not provide an adequate basis for setting a separate secondary standard for NO_2 to address the effects associated with nitrogen deposition on acidification of freshwater bodies and eutrophication of estuaries and coastal waters. Given the multiple causes and regional character of these problems, the Administrator also concludes that adoption of a nationally-uniform secondary standard would not be an effective approach to addressing them. Therefore, the Administrator has determined, pursuant to section 109(d)(1) of the Act, as amended, that it is not appropriate to revise the current secondary standard for NO_2 to protect against welfare effects at this time.

As provided for under the Act, the EPA will continue to assess the scientific information on nitrogen-related effects as it emerges from ongoing research and will update the air quality criteria accordingly. These revised criteria should provide a more informed basis for reaching a decision on whether a revised NAAQS or other regulatory measures are needed in the future.

In the interim, the EPA and the States are in the process of achieving significant reductions in NO_X emissions from both mobile and stationary sources in response to the Act's 1990 Amendments (Pub. L. 101–549, 104 Stat. 2399 (1990)) and local or regional initiatives. These actions include NO_X emission reductions from the following: (1) Stationary sources to meet the ozone NAAQS under title I of the Act, (2) mobile sources through the Federal Motor Vehicle Control Program under title II of the Act, and (3) electric utilities under title IV. In addition, regional initiatives, such as the Ozone Transport Assessment Group (which covers a 37-state area) and the Chesapeake Bay Program, are considering the need for additional NO_X reductions beyond those that are mandated by law. The EPA believes it is important to continue to recognize the benefits to the environment that can be achieved by further reducing NO_X emissions. The NO_X emissions reductions achieved through these actions will provide additional protection against the environmental impacts associated with the ozone NAAQS, visibility, eutrophication, and acid deposition and will assure areas attain and maintain the NO_2 NAAQS.

C. Judicial Review

The EPA has decided (pursuant to the Act, section 109(d)(1)) that no revision of the current primary or secondary NAAQS for NO_2 is appropriate. This decision is a final Agency action based on a determination of nationwide scope and effect. This decision is therefore subject to judicial review under the Act, section 307(b), exclusively in the United States Court of Appeals for the District of Columbia Circuit. Any petition for judicial review of this final Agency action must be filed in that court within 60 days after October 8, 1996.

IV. Miscellaneous

A. Executive Order 12866

Under Executive Order 12866, the Agency must determine whether a regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as one that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Although EPA is not making any modification to the existing NO_2 NAAQS, OMB has advised EPA that this action should be construed as a ''significant regulatory action'' within the meaning of the Executive Order. Accordingly, this action was submitted to OMB for review. Any suggestions or recommendations received from OMB have been incorporated into the public record.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601 et seq.) requires Federal agencies to consider the impacts of certain proposed and final regulations on small entities, which are defined as small businesses, small organizations, and small governmental jurisdictions. These requirements do not apply to any final administrative action which does not involve rulemaking. The EPA does not interpret sections 109 and 307 of the Act to require use of rulemaking procedures in those instances where the Agency decides not to initiate revision of existing NAAQS after completing its periodic review. The EPA has determined that the impact assessment requirements of the RFA are not applicable to this final administrative action.

C. Impact on Reporting Requirements

There are no reporting requirements directly associated with an ambient air quality standard promulgated under section 109 of the Act (42 U.S.C. 7400). There are, however, reporting requirements associated with related sections of the Act, particularly sections 107, 110, 160, and 317 (42 U.S.C. 7407, 7410, 7460, and 7617). This final action will not result in any changes in these reporting requirements since it would retain the existing level and averaging times for both the primary and secondary standards.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under sections 202, 203, and 205, respectively, of the UMRA, EPA generally must: (1) Prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year; (2) develop a small government agency plan; and (3) identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.

Because the Administrator has decided not to revise the existing national primary and secondary standards for NO_2, this action will not impose any new expenditures on governments or on the private sector, or establish any new regulatory requirements affecting small governments. Accordingly, EPA has determined that the provisions of sections 202, 203, and 205 of the URMA do not apply to this final decision.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: October 1, 1996.

Carol M. Browner,

Administrator.

References

(1) ''Oregon Natural Resource Council vs. Carol M. Browner,'' No. 91–6529–HO (D. Or.) (1993).

(2) U.S. Environmental Protection Agency. (1982) Air Quality Criteria for Oxides of Nitrogen. Research Triangle Park, NC: Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office; EPA report no. EPA–600/8–82–026. Available from: NTIS, Springfield, VA; PB83–131011.

(3) U.S. Environmental Protection Agency. (1993) Air Quality Criteria for Oxides of Nitrogen. Research Triangle Park, NC: Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office; EPA report no. EPA–600/8–91–049aF–cF, August 1993. Available from: NTIS, Springfield, VA.

(4) U.S. Environmental Protection Agency. (1995a) Review of the National Ambient Air Quality Standards for Nitrogen Oxides: Assessment of Scientific and Technical Information. OAQPS Staff Paper. Office of Air Quality Planning and Standards; EPA report no. EPA–452/R–95–005, September 1995.

(5) U.S. Environmental Protection Agency. (1995b) A SAB Report: Review of the Acid Deposition Standard Feasibility Study Report to Congress. Prepared by the Acid Deposition Effects Subcommittee of the Ecological Processes and Effects Committee; EPA report no. EPA–SAB–EPEC–95–019, September 1995.

(6) Wolff, G. T. (1993) CASAC closure letter for the 1993 Criteria Document for Oxides of Nitrogen addressed to U.S. EPA Administrator Carol M. Browner dated September 30, 1993.

(7) Wolff, G. T. (1995) CASAC closure letter for the 1995 OAQPS Staff Paper addressed to U.S. EPA Administrator Carol M. Browner dated August 22, 1995.

[FR Doc. 96–25786 Filed 10–7–96; 8:45 am]

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Federal Register

Tuesday
October 8, 1996

Part V

Federal Emergency Management Agency

Change to the Hotel and Motel Fire Safety Act National Master List; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations that meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: November 7, 1996.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, D.C. 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, please see **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Fire Management Programs Branch, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1272.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the Federal Register on Friday, June 21, 1996, 61 FR 32036–32256.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 61 FR 32032, also on June 21, 1996. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office.

The Hotel and Motel Fire Safety Act of 1990 National Master List is now accessible electronically. The National Master List Web Site is located at: http://www.usfa/fema.gov/hotel/index.htm

Visitors to this web site will be able to search, view, download and print all or part of the National Master List by State, city, or hotel chain. The site also provides visitors with other information related to the Hotel and Motel Fire Safety Act. Instructions on gaining access to this information are available as the visitor enters the site.

Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices. Each update contains or may contain three categories: ''Additions;'' ''Corrections/changes;'' and ''Deletions.'' For the purposes of the updates, the three categories mean and include the following:

''Additions'' are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

''Corrections/changes'' are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

''Deletions'' are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

Dated: September 27, 1996.

John P. Carey,

General Counsel.

The update to the national master list for the month of September 1996 follows:

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 6/18/96 UPDATE

Index and property name	PO Box/Rt No. and street address	City, State/ZIP	Phone
ADDITIONS			
AL:			
AL0253 COMFORT INN	1218 KELLI DR	ATHENS, AL 35611	(205) 232–2704
AL0256 SHONEY'S INN CLANTON	946 LAKE MITCHELL RD	CLANTON, AL 35045	(205) 280–0306
AL0254 COMFORT SUITES HOTEL	918 BELTLINE RD	DECATUR, AL 35601	(205) 355–9977
AL0255 JAMESON INN	115 ANNA DR	FLORENCE, AL 35630	(205) 764–5326
GA:			
GA0345 BEST WESTERN AMERICAN HOTEL.	160 SPRING ST	ATLANTA, GA 30303	(404) 688–8600
GA0347 FAIRFIELD INN DOWNTOWN	175 PIEDMONT AVE. NE	ATLANTA, GA 30303	(404) 659–7777
GA0346 HARVEY HOTEL AIRPORT NORTH.	1325 VIRGINIA AVE	ATLANTA, GA 30344	(404) 768–6660
ME:			
ME0058 NONANTUM RESORT	95 OCEAN AVE	KENNEBUNKPORT, ME 04046	(800) 552–5651
OK:			
OK0115 BEST WESTERN ATOKA INN	2101 S. MISSISSIPPI	ATOKA, OK 74525	(405) 889–7381
OK0116 HOLIDAY INN, DURANT	2121 W. MAIN ST	DURANT, OK 74701	(405) 924–5432
OK0117 SUPER 8 MOTEL	RT. 1, BOX 98	HENRYETTA, OK 74437	(918) 652–2533
TX:			
TX0704 HOLIDAY INN DFW AIRPORT, WEST.	3005 W. AIRPORT FREEWAY	BEDFORD, TX 76021	(817) 267–3181
TX0705 HOLIDAY INN FORT WORTH CENTRAL.	2000 BEACH STREET	FORT WORTH, TX 76103	(817) 534–4801
WV:			

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 6/18/96 UPDATE—Continued

Index and property name	PO Box/Rt No. and street address	City, State/ZIP	Phone
WV0229 EMBASSY INN—OFFICE BUILDING.	107 W. FAIR ST	FAIRLEA, WV 24902	(304) 645–7070
WV0226 BLUESTONE STATE PARK—CABINS.	BLUESTONE STATE PARK RD	HINTON, WV 25951	(304) 466–2805
WV0230 GENERAL LEWIS INN	301 E. WASHINGTON ST	LEWISBURG, WV 24901	(304) 645–2600
WV0232 SUNSET TERRACE MOTEL	RT. 60 W	LEWISBURG, WV 24901	(304) 645–2363
WV0227 AMERIHOST INN	401 37TH ST	PARKERSBURG, WV 26101	(304) 424–5300
WV0224 HOLIDAY INN	RT. 50, I–77	PARKERSBURG, WV 26101	(304) 485–6200
WV0225 HOLIDAY INN EXPRESS	#1 HOSPITALITY DR	RIPLEY, WV 25271	(304) 272–5000
WV0228 BUDGET INN	830 E. MAIN ST	WHITE SULPHUR SPGS., WV 24986.	(304) 536–2121
WV0231 THE SLEEPER MOTEL	HARTS RUN	WHITE SULPHUR SPGS., WV 24986.	(304) 536–2361
CORRECTIONS/CHANGES			
AL:			
AL0024 CHARTER HOUSE INC	US RT. 84 BYPASS E	ANDALUSIA, AL 36420	(334) 222–7511
AL0133 TOWN LINE MOTEL	1160 BYPASS W	ANDALUSIA, AL 36420	(334) 222–3191
AL0184 HEART OF AUBURN MOTEL & SUITES.	333 S. COLLEGE ST	AUBURN, AL 36830	(334) 843–5634
AL0218 BEST WESTERN BESSEMER INN.	1098 9TH AVE. SW	BESSEMER, AL 35021	(205) 424–0880
AL0057 HAMPTON INN	1466 MONTGOMERY HWY	BIRMINGHAM, AL 35216	(205) 822–2224
AL0202 RESIDENCE INN BY MARRIOTT.	3 GREENHILL PKWY	BIRMINGHAM, AL 35242	(205) 991–8686
AL0195 ECONO LODGE	241 DALEVILLE AVE	DALEVILLE, AL 36322	(334) 598–6304
AL0094 MALBIS MOTOR INN	PO BOX 639, 9865 US HWY. 90	DAPHNE, AL 36526	(334) 626–3050
AL0015 BEST WESTERN MINT SUNRISE.	1034 HWY. 80	DEMOPOLIS, AL 36732	(334) 289–5772
AL0037 DAYS INN DEMOPOLIS	1005 HWY. 80 E	DEMOPOLIS, AL 36732	(334) 289–2500
AL0144 WINDWOOD INN OF DEMOPOLIS.	628 HWY. 80 E	DEMOPOLIS, AL 36732	(334) 289–1760
AL0151 BEST WESTERN DOTHAN INN	2325 MONTGOMERY HWY	DOTHAN, AL 36303	(334) 793–4376
AL0027 COMFORT INN	3591 ROSS CLARK CIR	DOTHAN, AL 36303	(334) 793–9090
AL0038 DAYS INN DOTHAN	2841 ROSS CLARK CIR	DOTHAN, AL 36301	(334) 793–2550
AL0215 FAIRFIELD INN BY MARRIOTT	3038 ROSS CLARK CIR	DOTHAN, AL 36301	(334) 671–0100
AL0174 HAMPTON INN DOTHAN	3071 ROSS CLARK CIR. SW	DOTHAN, AL 36301	(334) 671–3700
AL0216 HOLIDAY INN DOTHAN SOUTH	2195 ROSS CLARK CIR	DOTHAN, AL 36301	(334) 794–8711
AL0066 HOLIDAY INN WEST	3053 ROSS CLARK CIR	DOTHAN, AL 36301	(334) 794–6601
AL0228 MOTEL 6	2903 ROSS CLARK CIR. SW	DOTHAN, AL 36301	(334) 793–6013
AL0164 RIVERA MOTEL	154 YELVERTON HWY. 84 E	ELBA, AL 36323	(334) 897–2204
AL0212 BOLL WEEVIL INN	305 S. MAIN ST	ENTERPRISE, AL 36330	(334) 347–2871
AL0028 COMFORT INN	615 BOLL WEEVIL CIR	ENTERPRISE, AL 36330	(334) 393–2304
AL0010 BEST WESTERN EUFAULA INN.	1337 S. EUFAULA AVE	EUFAULA, AL 36027	(334) 687–3900
AL0040 ECONO LODGE	PO BOX 564	EVERGREEN, AL 36401	(334) 578–4701
AL0206 ECONO LODGE	946 FORT DALE RD	GREENVILLE, AL 36037	(334) 382–3118
AL0190 DEAVERS MOTEL	141 S. JACKSON ST	GROVE HILL, AL 36451	(334) 275–3218
AL0145 WINDWOOD INN OF GROVE HILL.	PO BOX 418, RT. 2 HWY. 43 N	GROVE HILL, AL 36451	(334) 275–4121
AL0191 GULF STATE PARK RESORT HOTEL & CONV.	21250 E. BEACH BLVD	GULF SHORES, AL 36547	(334) 948–4853
AL0060 HARDWICK HOUSE MOTEL	1060 W. BEACH	GULF SHORES, AL 36542	(334) 948–7481
AL0042 ECONO LODGE	12 E. 22ND ST	LANETT, AL 36863	(334) 768–3500
AL0013 BEST WESTERN INN	180 S. BELTLINE	MOBILE, AL 36608	(334) 343–9845
AL0220 CLARION HOTEL MOBILE	3101 AIRPORT BLVD	MOBILE, AL 36606	(334) 476–6400
AL0171 DAYS INN SOUTH	1705 DAUPHIN ISLAND PKWY	MOBILE, AL 36605	(334) 471–6114
AL0039 DRURY INN	824 S. BELTLINE HWY	MOBILE, AL 36609	(334) 344–7700
AL0050 FAMILY INNS	900 S. BELTLINE	MOBILE, AL 36609	(334) 344–5500
AL0196 HOLIDAY INN DOWNTOWN HISTORIC DIST.	301 GOVERNMENT ST	MOBILE, AL 36602	(334) 649–0100
AL0161 HOWARD JOHNSON LODGE	3132 GOVERNMENT BLVD	MOBILE, AL 36606	(334) 471–2402
AL0085 LA QUINTA MOTOR INN	816 S. BELTLINE HWY	MOBILE, AL 36609	(334) 343–4051
AL0178 MOBILE DAYS INN	5550 I–10 SERVICE RD	MOBILE, AL 36619	(334) 661–8181
AL0232 MOTEL 6	1520 MATZENGER DR	MOBILE, AL 36605	(334) 473–1603
AL0235 MOTEL 6	400 S. BELTLINE HWY	MOBILE, AL 36608	(334) 343–8448
AL0237 MOTEL 6	5470 TILLMAN'S CORNER	MOBILE, AL 36619	(334) 660–1483
AL0108 RADISSON ADMIRAL SEMMES HOTEL.	251 GOVERNMENT ST	MOBILE, AL 36602	(334) 432–8000
AL0179 RED ROOF INN #98	33 S. BELTLINE HWY	MOBILE, AL 36606	(334) 476–2004
AL0125 SHONEYS INN	6556 US HWY. 90	MOBILE, AL 36616	(334) 660–1520
AL0046 ECONO LODGE OF MONROEVILLE.	1750 S. ALABAMA AVE	MONROEVILLE, AL 36460	(334) 575–3312

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 6/18/96 UPDATE—Continued

Index and property name	PO Box/Rt No. and street address	City, State/ZIP	Phone
AL0227 KNIGHTS INN	INTERSECTION OF HWY. 84 AND 21.	MONROEVILLE AL 36460	(334) 743–3156
AL0127 SUNSET MOTEL	PO BOX 228, RT. 1 INT. OF HWY. 84 & 136.	MONROEVILLE, AL 36460	(334) 575–4801
AL0016 BEST WESTERN MONTGOMERY LODGE.	977 W. S. BLVD	MONTGOMERY, AL 36105	(334) 288–5740
AL0018 BEST WESTERN PEDDLERS INN.	4231 MOBILE HWY	MONTGOMERY, AL 36108	(334) 288–0610
AL0020 BUDGET INN	4409 TROY HWY	MONTGOMERY, AL 36116	(334) 281–3760
AL0021 BUDGETEL INN	5225 CARMICHAEL RD	MONTGOMERY, AL 36106	(334) 277–6000
AL0022 CAPITOL INN	205 N. GOLDTHWAITE ST	MONTGOMERY, AL 36104	(334) 265–0541
AL0025 COLISEUM INN	1550 FEDERAL DR	MONTGOMERY, AL 36109	(334) 265–0586
AL0029 COMFORT INN MONTGOMERY	5175 CARMICHAEL RD	MONTGOMERY, AL 36106	(334) 277–1919
AL0221 COMFORT SUITES	5924 MONTICELLO DR	MONTGOMERY, AL 36117	(334) 272–1013
AL0169 COURTYARD BY MARRIOTT MONTGOMERY.	5555 CARMICHAEL RD	MONTGOMERY, AL 36117	(334) 272–5533
AL0035 DAYS INN AIRPORT	1150 W. SOUTH BLVD	MONTGOMERY, AL 36105	(334) 281–8000
AL0222 ECONO LODGE	4135 TROY HWY	MONTGOMERY, AL 36116	(334) 284–3400
AL0049 FAIRFIELD INN BY MARRIOTT	5601 CARMICHAEL RD	MONTGOMERY, AL 36117	(334) 270–0007
AL0056 HAMPTON INN	1401 EAST BLVD	MONTGOMERY, AL 36117	(334) 277–2400
AL0068 HOLIDAY INN EAST 0291	1185 EASTERN BYPASS	MONTGOMERY, AL 36117	(334) 272–0370
AL0074 HOWARD JOHNSON GOVERNORS HOUSE MOTEL.	2705 E. SOUTH BLVD	MONTGOMERY, AL 36116	(334) 288–2800
AL0160 HOWARD JOHNSON LODGE	1110 EASTERN BLVD	MONTGOMERY, AL 36117	(334) 272–8880
AL0198 INN SOUTH	4243 INN SOUTH AVE	MONTGOMERY, AL 36105	(334) 288–7999
AL0078 JOHN'S MOTEL	800 AIRBASE BLVD	MONTGOMERY, AL 36108	(334) 263–0366
AL0083 LA QUINTA INN	1280 E. BLVD	MONTGOMERY, AL 36117	(334) 271–1620
AL0231 MOTEL 6	1051 EASTERN BYPASS	MONTGOMERY, AL 36117	(334) 277–6748
AL0100 MOTEL TOWN PLAZA	743 MADISON AVE	MONTGOMERY, AL 36104	(334) 269–1561
AL0111 RAMADA EASTSIDE	1365 EASTERN BYPASS	MONTGOMERY, AL 36117	(334) 277–2200
AL0112 RAMADA INN	3951 NORMAN BRIDGE RD	MONTGOMERY, AL 36105	(334) 288–1120
AL0115 RESIDENCE INN BY MARRIOTT	1200 HILMAR CT	MONTGOMERY, AL 36117	(334) 270–3300
AL0165 RIVERFRONT INN	200 COOSA ST	MONTGOMERY, AL 36104	(334) 834–4300
AL0120 SCOTTISH INN	7237 TROY HWY	MONTGOMERY, AL 36064	(334) 288–1501
AL0141 VILLAGER INN	2750 CHESTNUT ST	MONTGOMERY, AL 36107	(334) 834–4055
AL0172 ECONO LODGE	1105 COLUMBUS PKWY	OPELIKA, AL 36801	(334) 749–8377
AL0053 GOLDEN CHERRY MOTEL	1010 2ND AVE	OPELIKA, AL 36801	(334) 745–7623
AL0230 MOTEL 6	1015 COLUMBUS PKWY	OPELIKA, AL 36801	(334) 745–0988
AL0170 DAYS INN	26032 PERDIDO BEACH BLVD	ORANGE BEACH, AL 36561	(334) 981–9888
AL0199 ISLAND HOUSE HOTEL	26650 PERDIDO BEACH BLVD	ORANGE BEACH, AL 36561	(334) 981–6100
AL0225 HOLIDAY INN OZARK FORT RUCKER.	PO BOX 190, 151 US HWY. 231 N	OZARK, AL 36360	(334) 774–7300
AL0009 BEST WESTERN AMERICAN MOTOR LODGE.	1600 280 BYPASS	PHENIX CITY, AL 36867	(334) 298–8000
AL0043 ECONO LODGE	1506 280 BYPASS	PHENIX CITY, AL 36867	(334) 298–5255
AL0095 MARRIOTT'S GRAND HOTEL	SCENIC HWY. 98	POINT CLEAR, AL 36564	(334) 928–9201
AL0071 HOLIDAY INN PRATTVILLE	I–65 & COBBS FORD RD	PRATTVILLE, AL 36066	(334) 285–3420
AL0007 BAMBOO MOTEL	1113 SARALAND BLVD	SARALAND, AL 36571	(334) 675–5691
AL0106 PLANTATION MOTEL	1010 HWY. 43	SARALAND, AL 36571	(334) 675–5511
AL0014 BEST WESTERN INN	1915 W. HIGHLAND AVE	SELMA, AL 36701	(334) 872–1900
AL0031 CRAIG MOTEL	1134 HWY. 80 E	SELMA, AL 36071	(334) 875–3150
AL0065 HOLIDAY INN SELMA	US HWY. 80 W	SELMA, AL 36701	(334) 872–0461
AL0136 TRAVELERS INN OF SELMA INC	2006 W. HIGHLAND AVE	SELMA, AL 36701	(334) 875–1200
AL0143 WINDWOOD INN MOTEL	1435 HWY. 43 N	THOMASVILLE, AL 36784	(334) 636–0123
AL0148 WINDWOOD INN OF THOMASVILLE.	1431 HWY. 43 N	THOMASVILLE, AL 36784	(334) 636–0123
AL0214 COMFORT INN	PO BOX 486, 805 HWY. 231	TROY, AL 36081	(334) 566–7799
AL0041 ECONO LODGE	1013 US HWY. 231 S	TROY, AL 36081	(334) 566–4960
MD:			
MD0120 HAMPTON INN GERMANTOWN	20260 GOLDEN ROD LN	GERMANTOWN, MD 20874	(301) 428–1300
TX:			
TX0193 LAQUINTA, INGRAM PARK-SAN ANTONIO.	7134 N.W. LOOP	SAN ANTONIO, TX 78238	(210) 680–8883
TX0570 MOTEL 6 # 0183	138 N.W. WHITE ROAD	SAN ANTONIO, TX 78219	(210) 333–1850
WV:			
WV0153 COLONIAL HOTEL (FRONT UNIT).	24 N. KANAWHA ST	BUCKHANNON, WV 26201	(304) 472–3000
WV0038 WILDERNESS PLANTATION	PO BOX 96	JANE LEW, WV 26378	(304) 884–7806
WV0022 DAYS INN MOTEL	635 N. JEFFERSON ST	LEWISBURG, WV 24901	(304) 645–2345
WV0215 VILLAGE INN—OFFICE & ANNEX.	38 W. MAIN ST	WHITE SULPHUR SPGS., WV 24986.	(304) 536–2323

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 6/18/96 UPDATE—Continued

Index and property name	PO Box/Rt No. and street address	City, State/ZIP	Phone
DELETIONS			
NONE			

[FR Doc. 96–25764 Filed 10–07–96; 8:45 am]
BILLING CODE 6718–08–U

Federal Register

Tuesday
October 8, 1996

Part VI

Environmental Protection Agency

40 CFR Parts 52 and 60

Colorado Standards of Performance for New Stationary Sources, Delegation of Authority; Clean Air Act Approval and Promulgation of State Implementation Plan for North Dakota; Air Pollution Control Rules Revisions; Proposed and Final Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 AND 60

[ND7–1–6882b; FRL–5618–7]

Clean Air Act Approval and Promulgation of State Implementation Plan for North Dakota; Revisions to the Air Pollution Control Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State implementation plan (SIP) revisions submitted by the State of North Dakota with a letter dated December 21, 1994. The submittal addressed revisions to SIP Chapter 2, regarding delegatable authorities and asbestos law revisions, and revisions to air pollution control rules regarding general provisions; ambient air quality standards; new source performance standards (NSPS); and national emission standards for hazardous air pollutants (NESHAPs). The submittal also addressed the following issues which were reviewed separately: revisions to the Title V permit to operate program; revisions to the Acid Rain program; and emission standards for hazardous air pollutants for source categories (MACT standards).

In the Final Rules Section of this Federal Register, EPA is acting on the State's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for EPA's actions is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated and the direct final rule will become effective. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by November 7, 1996.

ADDRESSES: Written comments on this action should be addressed to Amy Platt, 8P2–A, at the EPA Regional Office listed below. Copies of the State's submittal and documents relevant to this proposed rule are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2405; and North Dakota State Department of Health and Consolidated Laboratories, Environmental Health Section, 1200 Missouri Avenue, Bismarck, North Dakota, 58502–5520.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Environmental Protection Agency, (303) 312–6449.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: September 13, 1996.

Patricia D. Hull,

Acting Regional Administrator.

[FR Doc. 96–25470 Filed 10–7–96; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[ND7–1–6882a; FRL–5618–8]

Clean Air Act Approval and Promulgation of State Implementation Plan for North Dakota; Revisions to the Air Pollution Control Rules; Delegation of Authority for Colorado Standards of Performance for New Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority.

SUMMARY: EPA approves the State implementation plan (SIP) revisions submitted by the State of North Dakota with a letter dated December 21, 1994. The submittal addressed revisions to SIP Chapter 2, regarding delegatable authorities and asbestos law revisions, and revisions to air pollution control rules, regarding general provisions; ambient air quality standards; new source performance standards (NSPS); and national emission standards for hazardous air pollutants (NESHAPs). The submittal also addressed the following issues which were reviewed separately: Revisions to the Title V permit to operate program; revisions to the Acid Rain program; and emission standards for hazardous air pollutants for source categories (MACT standards).

In addition, EPA is providing notice that it granted delegation of authority to Colorado on February 15, 1996 to implement and enforce several NSPS adopted by the State.

DATES: This final rule is effective on December 9, 1996 unless comments are received in writing on or before November 7, 1996. If the effective date is delayed, timely notice will be published in the Federal Register. The Delegation of Authority for the State of Colorado became effective on February 15, 1996.

ADDRESSES: Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2405; North Dakota State Department of Health and Consolidated Laboratories, Environmental Health Section, 1200 Missouri Avenue, Bismarck, North Dakota, 58502–5520; and The Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Environmental Protection Agency, Region VIII, (303) 312–6449.

SUPPLEMENTARY INFORMATION:

I. Analysis of North Dakota's Submission

The State submitted various revisions to its air pollution control rules with a letter to EPA dated December 21, 1994. These revisions were necessary to make the rules consistent with Federal requirements.

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action [see section 110(k)(1) and 57 FR 13565]. EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

To entertain public comment, the State of North Dakota, after providing adequate notice, held public hearings on May 24, and May 25, 1994 to address the respective revisions to the SIP and Air Pollution Control Rules. Following the public hearings, the North Dakota State Health Council adopted the respective rule revisions.

The Governor of North Dakota submitted revisions to the SIP with a letter dated December 21, 1994. The SIP revisions were reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. The submittal was found to be complete and a letter dated February 13, 1995 was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process.

B. December 21, 1994 Revisions

The December 21, 1994 submittal addressed revisions to Chapter 2 of the SIP, regarding delegatable authorities and asbestos law revisions, and the following chapters of the North Dakota Air Pollution Control Rules: 33–15–01 General Provisions; 33–15–02 Ambient Air Quality Standards; 33–15–12 Standards of Performance for New Stationary Sources; and 33–15–13 Emission Standards for Hazardous Air Pollutants.

The December 21, 1994 submittal also addressed North Dakota Air Pollution Control Rules involving the Title V permit to operate program, the Acid Rain program, and emission standards for hazardous air pollutants for source categories (MACT standards). However, in a February 2, 1995 letter from Dana Mount, North Dakota Division of Environmental Engineering, to Douglas Skie, EPA, the State indicated that these programs were not intended to be reviewed through the SIP process. Accordingly, EPA reviewed these revisions separately from the rule revisions being considered in this document.

1. Asbestos Law Revisions

The 1993 North Dakota State Legislature made several revisions to the North Dakota Century Code provisions pertaining to asbestos regulation. These revisions were made to update the law to be consistent with the Federal Clean Air Act. Clarifications were made to the definition of ''asbestos worker'' and to the asbestos worker licensing and certification requirements. In addition, a new subsection was added to address requirements that the Department provide any procedural rules necessary to develop, implement, and enforce air pollution control programs, the authority and responsibility for which have been delegated to the State by EPA. These revisions are consistent with Federal requirements and, therefore, are approvable.

2. North Dakota Air Pollution Control Rules, Chapter 33–15–01 General Provisions

Revisions were made to section 33–15–01–17, Enforcement, and a new section 33–15–01–18, Compliance Certifications, was added. The change to section 33–15–01–17 allows the North Dakota State Department of Health and Consolidated Laboratories (''the Department'') to use monitoring data as credible evidence that noncompliance of a source exits. Section 33–15–01–18 allows the source to use monitoring data to certify that the source is in compliance with the applicable emission limits. These revisions are consistent with Federal requirements and, therefore, are approvable.

These revisions also address EPA's nationwide SIP call regarding the new enhanced monitoring and compliance certification requirements of the amended Act. On October 22, 1993, EPA announced in the Federal Register that SIP calls pursuant to section 110(k)(5) of the Act would be issued in order to implement the enhanced monitoring requirements of section 114(a)(3) of the Act and the periodic monitoring requirements for operating permits under sections 502(b)(2) and 504 of the Act (see 58 FR 54677). This SIP call was required because existing SIPs could have been interpreted to limit the types of testing or monitoring data to be used for determining compliance and establishing violations.

EPA believes that the State has adequately satisfied the requirements of the SIP call. The revision to section 33–15–01–17 provides that information from monitoring methods approved in a federally enforceable operating permit or in the SIP, as well as from any other federally enforceable monitoring and testing methods (including those in 40 CFR Parts 50, 51, 60, 61, and 75), may be used by the State as credible evidence to determine compliance. By allowing compliance certifications to be made with approved enhanced monitoring protocols or other approved monitoring methods, the new section 33–15–01–18 has the practical effect of making the SIP more flexible and inclusive since it does not preclude the use of enhanced monitoring. Therefore, EPA is approving these revisions to Chapter 33–15–01 regarding enhanced monitoring and compliance certifications.

3. Chapter 33–15–02 Ambient Air Quality Standards

Revisions to this chapter consist of deleting the one-hour ambient air quality standard for nitrogen dioxide. The State received a request for this revision from the North Dakota Lignite Council. The State indicated that the standard was originally written in terms that allowed exceedances one percent of the time in any three-month period, which proved to be a very cumbersome standard to track and required extensive time by staff to perform dispersion modelling to ensure compliance. The State opted to delete the one-hour standard and retain the Federal annual standard of 100 $\mu g/m^3$, in response to the need to develop a more manageable standard, the request by industry that the one-hour standard be deleted, and EPA's 1993 findings that no changes in the Federal standard were contemplated. This revision is consistent with Federal requirements and, therefore, is approvable.

4. Chapter 33–15–12, Standards of Performance for New Stationary Sources; Chapter 33–15–13, Emission Standards for Hazardous Air Pollutants

The revisions to Chapters 33–15–12 and 33–15–13 incorporate by reference the Federal NSPS in 40 CFR part 60 and the Federal NESHAPs in 40 CFR part 61, as in effect on May 1, 1994, with the exception of 40 CFR part 61, subparts B, H, I, K, Q, R, T, and W (*i.e.*, radionuclides). The revisions to Chapter 33–15–12 include the addition, by reference, of Subpart RRR—Standards of Performance for Volatile Organic Compound Emissions by Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes. EPA reviewed the State's revised NSPS and NESHAPs regulations and determined that they are consistent with the Federal regulations and, therefore, are approvable.

II. Notice of Delegation of Authority to Colorado

On November 17, 1995, the State of Colorado submitted revisions to its NSPS regulations in Part A of Colorado Regulation No. 6. The submittal included the addition of the Federal NSPS in 40 CFR part 60, subparts Dc, Ea, Kb, AAa, BBB, DDD, NNN, QQQ, RRR, SSS, TTT, UUU, and VVV. Pursuant to such submittal, on February 15, 1996, delegation was given with the following letter:

Honorable Roy Romer, Governor of Colorado, 136 State Capitol, Denver, Colorado 80203–1792.

Dear Governor Romer: On November 17, 1995, you requested delegation of authority for revisions to the New Source Performance Standards (NSPS) in Part A of Colorado's Regulation No. 6. These revisions brought the State's NSPS up to date with the Federal NSPS in effect as of October 11, 1994, with the exception of Subparts AAA (new residential wood heaters) and III (volatile organic compound emissions from the synthetic organic chemical manufacturing industry air oxidation unit processes) which the State has not adopted.

Subsequent to states adopting NSPS regulations, the EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA, therefore, is acting on the delegation of authority to Colorado for implementation and enforcement of thirteen NSPS.

EPA has reviewed the pertinent statutes and regulations of the State of Colorado and has determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS, including the source applicability dates, by the State of Colorado. Therefore, pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR Part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Colorado as follows:

(A) Responsibility for all sources located, or to be located, in the State of Colorado subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60. The categories of new stationary sources covered by this delegation are as follows: small industrial-commercial-institutional steam generating units (Subpart Dc), municipal waste combustors (Subpart Ea), volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984 (Subpart Kb), steel plants: electric arc furnaces and argon-oxygen decarburization vessels constructed after August 7, 1983 (Subpart AAa), rubber tire manufacturing industry (Subpart BBB), volatile organic compound emissions from the polymer manufacturing industry (Subpart DDD), volatile organic compound emissions from synthetic organic chemical manufacturing industry distillation operations (Subpart NNN), volatile organic compound emissions from petroleum refinery wastewater systems (Subpart QQQ), volatile organic compound emissions from synthetic organic chemical manufacturing industry reactor processes (Subpart RRR), magnetic tape coating facilities (Subpart SSS), industrial surface coating: surface coating of plastic parts for business machines (Subpart TTT), calciners and dryers in mineral industries (Subpart UUU), and polymeric coating of supporting substrates facilities (Subpart VVV).

(B) Not all authorities of NSPS can be delegated to states under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR Part 60 being delegated in this letter, the following sections are not delegated to the State of Colorado:

(i) 40 CFR 60.48c(a)(4), pertaining to small industrial-commercial-institutional steam generating units (Subpart Dc);

(ii) 40 CFR 60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii), pertaining to volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984, (Subpart Kb);

(iii) 40 CFR 60.543(c)(2)(ii)(B), pertaining to the rubber tire manufacturing industry (Subpart BBB);

(iv) 40 CFR 60.562–2(c), pertaining to volatile organic compound emissions from the polymer manufacturing industry (Subpart DDD);

(v) 40 CFR 60.663(e), pertaining to volatile organic compound emissions from synthetic organic chemical manufacturing industry distillation operations (Subpart NNN);

(vi) 40 CFR 60.694, pertaining to volatile organic compound emissions from petroleum refinery wastewater systems (Subpart QQQ);

(vii) 40 CFR 60.703(e), pertaining to volatile organic compound emissions from

synthetic organic chemical manufacturing industry reactor processes (Subpart RRR);

(viii) 40 CFR 60.711(a)(16), 60.713(b)(1)(i), 60.713(b)(1)(ii), 60.713(b)(5)(i), 60.713(d), 60.715(a), and 60.716, pertaining to magnetic tape coating facilities (Subpart SSS);

(ix) 40 CFR 60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e), and 60.725(b), pertaining to industrial surface coating of plastic parts for business machines (Subpart TTT); and

(x) 40 CFR 60.743(a)(3)(v) (A) and (B), 60.743(e), 60.745(a), and 60.746, pertaining to polymeric coating of supporting substrates facilities (Subpart VVV).

(C) As 40 CFR Part 60 is updated, Colorado should revise its regulations accordingly and in a timely manner.

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of August 27, 1975, except that condition 3, relating to Federal facilities, has been voided by the Clean Air Act Amendments of 1977. It is also important to note that EPA retains concurrent enforcement authority as stated in condition 2. In addition, if at any time there is a conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 10. A copy of this letter was published in the notices section of the Federal Register on October 31, 1975 (40 FR 50748), along with an associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of Colorado (40 FR 50718). Copies of the Federal Register are enclosed for your convenience.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Colorado will be deemed to have accepted all the terms of this delegation. An information notice will be published in the Federal Register in the near future informing the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please call me, or have your staff contact Richard Long, Director of our Air Program, at 312–6005.

Sincerely,

Patricia Hull,

Acting Regional Administrator.

III. Final Action

EPA is approving North Dakota's SIP revision, as submitted by the Governor with a letter December 21, 1994. This submittal addressed revisions to SIP Chapter 2, regarding Delegatable Authorities and Asbestos Law Revisions, and revisions to the following North Dakota Air Pollution Control Rules: 33–15–01 General Provisions; 33–15–02 Ambient Air Quality Standards; 33–15–12 Standards of Performance for New Stationary Sources; and 33–15–13 Emission Standards for Hazardous Air Pollutants. This approval provides the State with the authority for implementation and enforcement of all Federal NSPS and NESHAPs (except 40 CFR part 61, subparts B, H, I, K, Q, R, T, and W, pertaining to radionuclides) promulgated as of May 1, 1994. However, the State's NSPS and NESHAP authorities do not include those authorities which cannot be delegated to the states, as defined in 40 CFR parts 60 and 61. The update of the 40 CFR part 60 table of NSPS delegations reflects these December 1994 North Dakota revisions as well as North Dakota revisions to the NSPS delegations that were approved in the Federal Register on August 21, 1995 (60 FR 43396) and South Dakota revisions to the NSPS delegations that were approved in the Federal Register on September 6, 1995 (60 FR 46225).

The December 21, 1994 submittal also included revisions to chapters 33–15–14, 33–15–21, 33–15–22, regarding the Title V permit to operate program, Acid Rain program, and MACT standards. These issues were reviewed separately from this document.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 9, 1996 unless, by November 7, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 9, 1996.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600, *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for

informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing requirements under State or local law, and imposes not new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 9, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, and Reporting and recordkeeping requirements.

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, and Zinc.

Dated: September 13, 1996.

Patricia D. Hull,

Acting Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart JJ—North Dakota

2. Section 52.1820 is amended by adding paragraph (c)(28) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(28) The Governor of North Dakota submitted revisions to the North Dakota State Implementation Plan and Air Pollution Control Rules with a letter dated December 21, 1994. The submittal addressed revisions to SIP Chapter 2, regarding delegatable authorities and asbestos law revisions, and to air pollution control rules regarding general provisions; ambient air quality standards; new source performance standards (NSPS); and national emission standards for hazardous air pollutants (NESHAPs).

(i) Incorporation by reference.

(A) Revisions to the following sections of the North Dakota Century Code: 23–25–01; 23–25–03; and 23–25–03.1, effective August 1, 1993.

(B) Revisions to the Air Pollution Control Rules as follows: General Provisions 33–15–01–17 and 33–15–01–18; Ambient Air Quality Standards 33–15–02–05 and 33–15–02 Table 1; Standards of Performance for New Stationary Sources 33–15–12; and Emission Standards for Hazardous Air Pollutants 33–15–13, effective December 1, 1994.

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

2. Section 60.4(c) is amended by revising the table to read as follows:

§ 60.4 Address.

* * * * *

(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS

[(NSPS) for Region VIII]

Subpart	CO	MT[1]	ND[1]	SD[1]	UT[1]	WY
A—General Provisions	(*)	(*)	(*)	(*)	(*)	(*)
D—Fossil Fuel Fired Steam Generators	(*)	(*)	(*)	(*)	(*)	(*)
Da—Electric Utility Steam Generators	(*)	(*)	(*)	(*)	(*)	(*)
Db—Industrial-Commercial—Institutional Steam Generators	(*)	(*)	(*)	(*)	(*)	(*)
Dc—Industrial-Commercial—Institutional Steam Generators	(*)	(*)	(*)	(*)	(*)	(*)
E—Incinerators	(*)	(*)	(*)	(*)	(*)	(*)
Ea—Municipal Waste Combustors	(*)	(*)	(*)	(*)	(*)	(*)
F—Portland Cement Plants	(*)	(*)	(*)	(*)	(*)	(*)
G—Nitric Acid Plants	(*)	(*)	(*)	(*)	(*)	
H—Sulfuric Acid Plants	(*)	(*)	(*)	(*)	(*)	
I—Asphalt Concrete Plants	(*)	(*)	(*)	(*)	(*)	(*)
J—Petroleum Refineries	(*)	(*)	(*)	(*)	(*)	

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS—Continued

[(NSPS) for Region VIII]

Subpart	CO	MT[1]	ND[1]	SD[1]	UT[1]	WY
K—Petroleum Storage Vessels (after 6/11/73 & prior to 5/19/78)	(*)	(*)	(*)	(*)	(*)	(*)
Ka—Petroleum Storage Vessels (after 5/18/78 & prior to 7/23/84)	(*)	(*)	(*)	(*)	(*)	(*)
Kb—Petroleum Storage Vessels (after 7/23/84)	(*)	(*)	(*)	(*)	(*)	(*)
L—Secondary Lead Smelters	(*)	(*)	(*)	(*)	(*)	
M—Secondary Brass & Bronze Production Plants	(*)	(*)	(*)	(*)	(*)	(*)
N—Primary Emissions from Basic Oxygen Process Furnaces (after 6/11/73)	(*)	(*)	(*)		(*)	(*)
Na—Secondary Emissions from Basic Oxygen Process Furnaces (after 1/20/83)	(*)	(*)	(*)		(*)	(*)
O—Sewage Treatment Plants	(*)	(*)	(*)	(*)	(*)	(*)
P—Primary Copper Smelters	(*)	(*)	(*)		(*)	(*)
Q—Primary Zinc Smelters	(*)	(*)	(*)		(*)	(*)
R—Primary Lead Smelters	(*)	(*)	(*)		(*)	(*)
S—Primary Aluminum Reduction Plants	(*)	(*)	(*)		(*)	(*)
T—Phosphate Fertilizer Industry: Wet Process Phosphoric Plants	(*)	(*)	(*)		(*)	(*)
U—Phosphate Fertilizer Industry: Superphosphoric Acid Plants	(*)	(*)	(*)		(*)	(*)
V—Phosphate Fertilizer Industry: Diammonium Phosphate Plants	(*)	(*)	(*)		(*)	(*)
W—Phosphate Fertilizer Industry: Triple Superphosphate Plants	(*)	(*)	(*)		(*)	(*)
X—Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	(*)	(*)	(*)		(*)	(*)
Y—Coal Preparation Plants	(*)	(*)	(*)	(*)	(*)	(*)
Z—Ferroalloy Production Facilities	(*)	(*)	(*)		(*)	(*)
AA—Steel Plants: Electric Arc Furnaces (10/21/74–8/17/83)	(*)	(*)	(*)		(*)	(*)
AAa—Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels (after 8/7/83)	(*)	(*)	(*)		(*)	(*)
BB—Kraft Pulp Mills	(*)	(*)	(*)		(*)	(*)
CC—Glass Manufacturing Plants	(*)	(*)	(*)		(*)	(*)
DD—Grain Elevator	(*)	(*)	(*)	(*)	(*)	(*)
EE—Surface Coating of Metal Furniture	(*)	(*)	(*)		(*)	(*)
GG—Stationary Gas Turbines	(*)	(*)	(*)	(*)	(*)	(*)
HH—Lime Manufacturing Plants	(*)	(*)	(*)	(*)	(*)	(*)
KK—Lead-Acid Battery Manufacturing Plants	(*)	(*)	(*)		(*)	(*)
LL—Metallic Mineral Processing Plants	(*)	(*)	(*)	(*)	(*)	(*)
MM—Automobile & Light Duty Truck Surface Coating Operations	(*)	(*)	(*)		(*)	(*)
NN—Phosphate Rock Plants	(*)	(*)	(*)		(*)	(*)
PP—Ammonium Sulfate Manufacturing	(*)	(*)	(*)		(*)	(*)
QQ—Graphic Arts Industry: Publication Rotogravure Printing	(*)	(*)	(*)	(*)	(*)	(*)
RR—Pressure Sensitive Tape & Label Surface Coating	(*)	(*)	(*)	(*)	(*)	(*)
SS—Industrial Surface Coating: Large Applications	(*)	(*)	(*)		(*)	(*)
TT—Metal Coil Surface Coating	(*)	(*)	(*)		(*)	(*)
UU—Asphalt Processing & Asphalt Roofing Manufacture	(*)	(*)	(*)		(*)	(*)
VV—Synthetic Organic Chemicals Manufacturing: Equipment Leaks of VOC	(*)	(*)	(*)	(*)	(*)	(*)
WW—Beverage Can Surface Coating Industry	(*)	(*)	(*)		(*)	(*)
XX—Bulk Gasoline Terminals	(*)	(*)	(*)	(*)	(*)	(*)
AAA—Residential Wood Heaters	(*)	(*)	(*)	(*)	(*)	(*)
BBB—Rubber Tires	(*)	(*)	(*)		(*)	(*)
DDD—VOC Emissions from Polymer Manufacturing Industry	(*)	(*)	(*)		(*)	(*)
FFF—Flexible Vinyl & Urethane Coating & Printing	(*)	(*)	(*)		(*)	(*)
GGG—Equipment Leaks of VOC in Petroleum Refineries	(*)	(*)	(*)		(*)	(*)
HHH—Synthetic Fiber Production	(*)	(*)	(*)		(*)	(*)
III—VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Air Oxidation Unit Processes		(*)	(*)		(*)	(*)
JJJ—Petroleum Dry Cleaners	(*)	(*)	(*)	(*)	(*)	(*)
KKK—Equipment Leaks of VOC from Onshore Natural Gas Processing Plants	(*)	(*)	(*)		(*)	(*)
LLL—Onshore Natural Gas Processing: SO_2 Emissions	(*)	(*)	(*)		(*)	(*)
NNN—VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Distillation Operations	(*)	(*)	(*)	(*)	(*)	(*)
OOO—Nonmetallic Mineral Processing Plants	(*)	(*)	(*)	(*)	(*)	(*)
PPP—Wool Fiberglass Insulation Manufacturing Plants	(*)	(*)	(*)		(*)	(*)
QQQ—VOC Emissions from Petroleum Refinery Wastewater Systems	(*)	(*)	(*)		(*)	(*)
RRR—VOC Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes	(*)		(*)		(*)	
SSS—Magnetic Tape Industry	(*)	(*)	(*)	(*)	(*)	(*)
TTT—Plastic Parts for Business Machine Coatings	(*)	(*)	(*)		(*)	(*)
UUU—Calciners and Dryers in Mineral Industries	(*)		(*)		(*)	

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[(NSPS) for Region VIII]

Subpart	CO	MT[1]	ND[1]	SD[1]	UT[1]	WY
VVV—Polymeric Coating of Supporting Substrates	(*)	(*)	(*)		(*)	(*)

(*) Indicates approval of state regulation.
[1] Indicates approval of New Source Performance Standards as part of the State Implementation Plan (SIP).

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